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November 8, 2007

VIA HAND DELIVERY AND ELECTRONIC FILING (ECFS)

REDACTED – FOR PUBLIC INSPECTION

Ms. Marlene Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Notification of Ex Parte Presentation in WC Docket No. 06-172

Dear Ms. Dortch:

On November 7, 2007, Angela Simpson of Covad Communications Group, Heather B. Gold and Lisa R. Youngers of XO Communications, LLC, and Brad E. Mutschelknaus and Genevieve Morelli of Kelley Drye & Warren LLP met with Scott Bergmann, Legal Advisor to Commissioner Jonathan S. Adelstein. At the meeting, the parties discussed that data submitted in the above-referenced proceeding does not demonstrate significant levels of facilities-based competition within any of the Metropolitan Statistical Areas subject to the Verizon Petitions. The attached presentation, and other documents were distributed at the meeting.

Please note, this *ex parte* filing has been redacted for public inspection, in accordance with the terms of the Second Protective Order in the above-referenced proceeding.[1] As required by the Second Protective Order, unredacted copies of this filing also have been delivered to the Commission Secretary, and two copies of the same have been delivered to Mr. Gary Remondino of the Wireline Competition Bureau, under separate cover.

1 *In the Matter of the Petitions of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Boston, New York, Philadelphia, Pittsburgh, Providence*, WC Docket No. 06-172, Order, DA 07-208 (rel. Jan. 25, 2007) ("Second Protective Order").

Please feel free to contact the undersigned counsel at (202) 342-8625 if you have any questions, or require further information.

Respectfully submitted,

Brett Heather Freedson

Brett Heather Freedson

cc (via email): Jeremy Miller
Tim Stelzig

SLIDE PRESENTATION

DATA DEMONSTRATING THE INSIGNIFICANCE OF FACILITIES-BASED COMPETITION IN VERIZON UNE FORBEARANCE MARKETS

Wednesday, November 7, 2007

Presentation Sponsored by

Covad Communications and XO Communications

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EVEN THE LARGEST FACILITIES-BASED CLECs REACH VERY FEW BUILDINGS

- XO Connects to Only 142 Buildings in the Markets at Issue

MSA	GeoResults Number of XO Lit Buildings[1]/	Confirmed Number of XO Lit Buildings
Boston	34	24
New York	50	53
Philadelphia	40	50
Pittsburgh	7	15
Total	**131**	**142**

1/ XO's and Verizon's GeoResults data is different for each of these markets. This is likely attributable in part to the timing of the GeoResults data dip performed for each company. Also, XO had its figures scrubbed and produced by GeoResults whereas it is our understanding that Verizon arrived at its figures by accessing the underlying database itself. For purposes of this table, XO used the higher of the two GeoResults figures for each market.

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EVEN THE LARGEST FACILITIES-BASED CLECs REACH VERY FEW BUILDINGS (cont'd)

- XO Loop Facilities Reach a De Minimis Percentage of Commercial Buildings

MSA	Commercial Buildings	Confirmed Number of XO Lit Buildings	% Commercial XO Lit Buildings
Boston	192,227	24	0.01%
New York	446,122	53	0.01%
Philadelphia	217,725	50	0.02%
Pittsburgh	85,694	15	0.01%
Providence	56,927	0	0%
Virginia Beach	72,229	0	0%
Total	1,070,924	142	0.01%

- One Communications has Deployed Loop Facilities to Only ****BEGIN CONFIDENTIAL** [ ] **END CONFIDENTIAL**** Customer Locations
- Time Warner Telecom's Experience is Similar – It Connects to Only ****BEGIN CONFIDENTIAL** [ ] **END CONFIDENTIAL**** Buildings

VERIZON'S DATA MISREPRESENTS THE INCIDENCE OF CLEC LIT BUILDINGS – GROSS MISCOUNTING OF QWEST LOCATIONS DISTORTS VERIZON'S DATA

*****BEGIN CONFIDENTIAL**

MSA	**Verizon's Number of Qwest Lit Buildings**	**Qwest's Wholesale List of On-Net Buildings[1]/**	**GeoResults' Number of Qwest Lit Buildings**
Boston			
New York			
Philadelphia			
Pittsburgh			
Providence			
Virginia Beach			
Total			

1/ These figures include carrier hotels, as well as addresses to which Qwest makes available no DS0, DS1 or DS3 services. If these addresses were backed-out, the totals would be substantially lower.

END CONFIDENTIAL***

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THE CORRECT INCIDENCE OF CLEC LIT BUILDINGS IS AS FOLLOWS

- Use of GeoResults Data Corrects Two Flaws in Verizon's Data: Over-Reporting and Double-Counting

*****BEGIN CONFIDENTIAL**

MSA	VZ Reported "Carrier-Building Instances"	GeoResults CLEC *Lit Buildings* (including MCI)
Boston		
New York		
Philadelphia		
Pittsburgh		
Providence		
Virginia Beach		
Total		

END CONFIDENTIAL***

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GEORESULTS DATA CONFIRMS THAT ALL FACILITIES-BASED CLECS *IN THE AGGREGATE* DO NOT CONNECT TO A SIGNIFICANT PORTION OF COMMERCIAL BUILDINGS

MSA	**Commercial Buildings**	**Commercial CLEC Lit Buildings**	**% Commercial CLEC Lit Buildings (including MCI)**
Boston	192,227	234	0.12%
New York	446,122	429	0.09%
Philadelphia	217,725	320	0.14%
Pittsburgh	85,694	162	0.18%
Providence	56,927	233	0.40%
Virginia Beach	72,229	1,395	1.9%
Total	1,070,924	2,773	0.25%

MANY WIRE CENTERS HAVE *NO COMMERCIAL BUILDINGS* CONNECTED TO CLEC FIBER

MSA	Number of Wire Centers	Number of Wire Centers With No CLEC Lit Fiber	% of Wire Centers With No CLEC Lit Fiber
Boston	131	69	53%
New York	115	52	45%
Philadelphia	156	78	50%
Pittsburgh	149	114	77%
Providence	33	11	33%
Virginia Beach	58	16	28%

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IN FACT, FACILITIES-BASED CLECS DO NOT CONNECT TO A SIGNIFICANT PORTION OF COMMERCIAL BUILDINGS IN ANY *INDIVIDUAL WIRE CENTER*

Wire Centers in Each MSA With Highest % of CLEC Lit Buildings	Commercial Buildings	Commercial CLEC Lit Buildings	% Commercial CLEC Lit Buildings
Boston WLHMMAWE	1,007	15	1.49%
New York NYCMNYBS	4,008	44	1.07%
Philadelphia PHLAPALO	4,676	32	0.68%
Pittsburgh PITBPADT	4,137	45	1.09%
Providence PRVDRIWA	8,129	79	0.97%
Virginia Beach NRFLVABL	1,654	71	4.29%

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FACILITIES-BASED CLECS CANNOT CONNECT TO SUBSTANTIALLY MORE COMMERCIAL BUILDINGS WITHIN A COMMERCIALLY REASONABLE TIME

MSA	% of Total Commercial Buildings Within 500 ft. of XO facilities	% Within 1000 ft.
Boston	0.7%	1.6%
New York	1.9%	4.2%
Philadelphia	2.7%	6.0%
Pittsburgh	0.8%	1.7%

CABLE TELEPHONY MARKET PENETRATION FALLS FAR SHORT OF THE LEVEL THAT EXISTED IN OMAHA

- The Cable Penetration Levels in the Six Verizon Markets Range from Less Than ¼ to ½ of Levels Found in Omaha
- Using E911 Data Filed by Verizon, We Estimated the *Maximum Potential* Cable Market Penetration in Each Market at Issue

*****BEGIN HIGHLY CONFIDENTIAL*****

Market	Residential	Business	Combined
Boston			
New York			
Philadelphia			
Pittsburgh			
Providence			
Virginia Beach			

*****END HIGHLY CONFIDENTIAL*****

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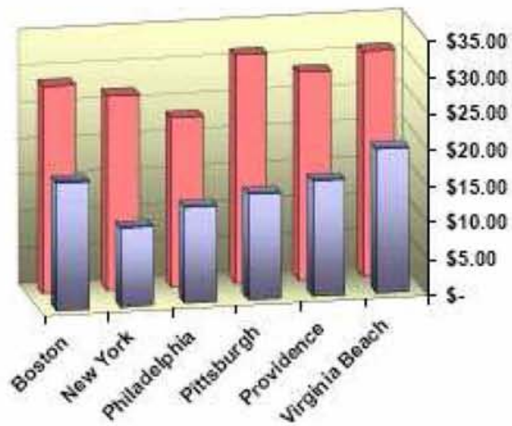
THESE ESTIMATES ARE CONFIRMED BY DATA ACTUALLY FILED BY CABLE COMPANIES

- RCN Says That is Serves ****BEGIN CONFIDENTIAL** [ ] **END CONFIDENTIAL**** of Homes That its Network Reaches in Boston and ****BEGIN CONFIDENTIAL** [ ] **END CONFIDENTIAL**** in Philadelphia
- Time Warner Cable Says That its Penetration Rate to Serviceable Homes in New York is Less Than 10%. Its *Actual* Share of the Total Residential Market in New York is Approximately ****BEGIN CONFIDENTIAL** [ ] **END CONFIDENTIAL****
- Comcast serves only approximately ****BEGIN CONFIDENTIAL** [ ] **END CONFIDENTIAL**** of the homes it passes in Boston, ****BEGIN CONFIDENTIAL** [ ] **END CONFIDENTIAL**** of the homes its passes in Philadelphia, and **** BEGIN CONFIDENTIAL** [ ] **END CONFIDENTIAL**** of the homes it passes in Pittsburgh

GRANTING VERIZON'S PETITIONS WOULD DIRECTLY CAUSE A HUGE SPIKE IN WHOLESALE FACILITY COSTS

2 Wire Analog Loops:
UNE Cost and Cost if Forbearance is Granted
(Recurring per Month)



	Boston	New York	Philadelphia	Pittsburgh	Providence	Virginia Beach
UNE Cost	$17.65	$10.90	$13.36	$14.58	$15.97	$19.88
Cost if Forbearance is Granted	$28.58	$26.76	$23.28	$31.45	$28.58	$31.01

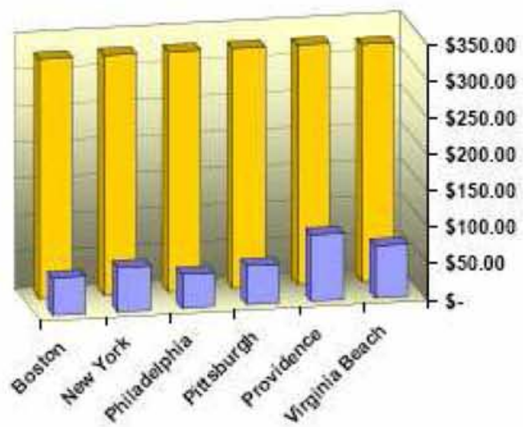
DS1 Loops:
UNE Cost and Cost if Forbearance is Granted
(Recurring per Month)

	Boston	New York	Philadelphia	Pittsburgh	Providence	Virginia Beach
UNE Cost	$80.17	$94.65	$96.00	$99.71	$146.11	$85.47
Cost if Forbearance is Granted	$216.85	$207.71	$214.25	$259.35	$225.68	$255.69

REDACTED FOR PUBLIC INSPECTION

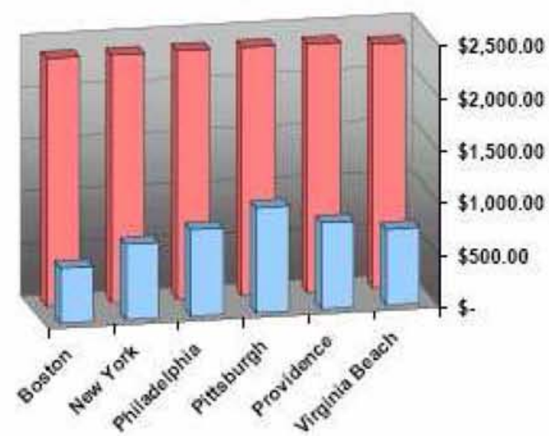
GRANTING VERIZON'S PETITIONS WOULD DIRECTLY CAUSE A HUGE SPIKE IN WHOLESALE FACILITY COSTS (cont'd)

DS1 Transport:
UNE Cost and Cost if Forbearance is Granted
(Recurring per Month)



	Boston	New York	Philadelphia	Pittsburgh	Providence	Virginia Beach
UNE Cost	$51.30	$60.57	$47.23	$53.48	$91.44	$71.04
Cost if Forbearance is Granted	$328.70	$328.70	$328.70	$328.70	$328.70	$324.07

DS3 Transport:
UNE Cost and Cost if Forbearance is Granted
(Recurring per Month)



	Boston	New York	Philadelphia	Pittsburgh	Providence	Virginia Beach
UNE Cost	$527.12	$722.14	$632.24	$1,005.78	$827.69	$730.76
Cost if Forbearance is Granted	$2,375.30	$2,375.30	$2,375.30	$2,375.30	$2,375.30	$2,341.85

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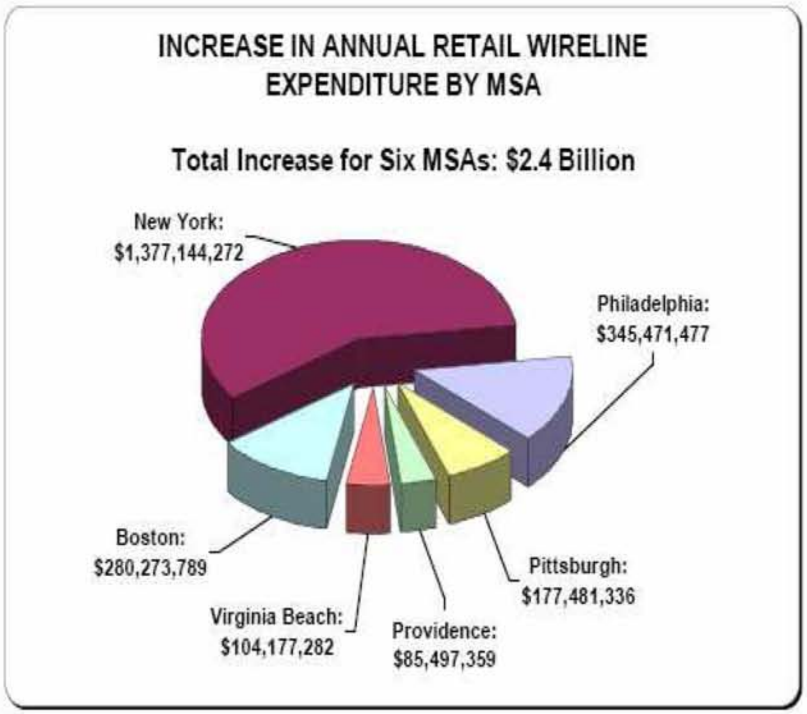
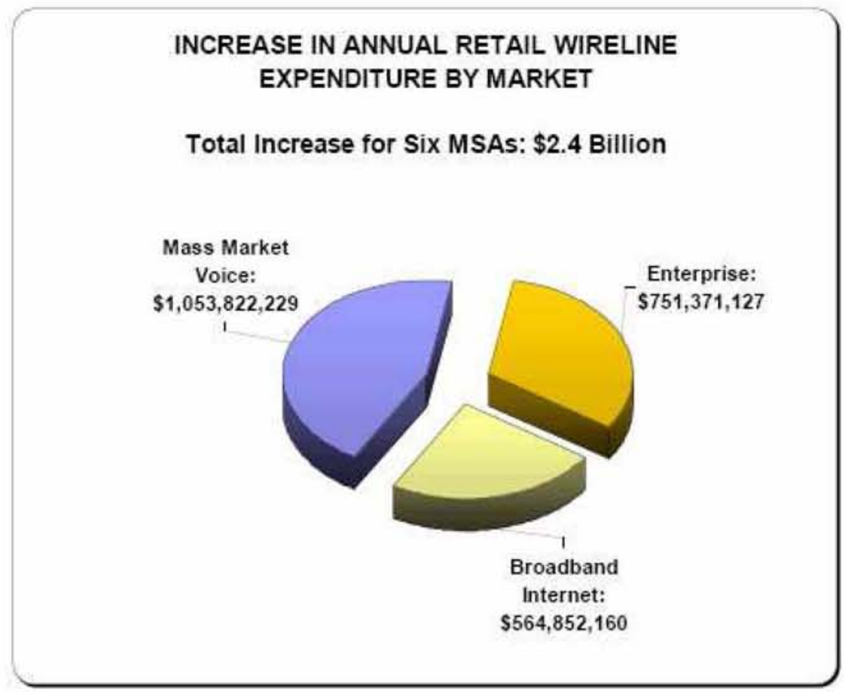
AS RETAIL CARRIERS PASS THROUGH INCREASED WHOLESALE COSTS, GRANTING VERIZON'S PETITIONS WOULD RESULT IN:

- *$2.4 Billion* Increase in Telecom Expenditures





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AS RETAIL CARRIERS PASS THROUGH INCREASED WHOLESALE COSTS, GRANTING VERIZON'S PETITIONS WOULD RESULT IN:

- *24%* Increase in Residential Wireline Bills

Relative Increase in Residential Annual Retail Expenditures

MSA	Residential Voice and Broadband Internet	
	Annual Increase per Household	% Residential Wireline Expenditure
Boston	$ 92	20%
New York	$ 132	28%
Philadelphia	$ 87	19%
Pittsburgh	$ 120	26%
Providence	$ 96	20%
Virginia Beach	$ 84	17%
Combined 6 MSAs	$ 114	24%

Relative Increase in Total Annual Retail Expenditures

MSA	Total Voice and Broadband as % Total Retail Wireline Revenues
Boston	11%
New York	13%
Philadelphia	11%
Pittsburgh	15%
Providence	11%
Virginia Beach	12%
Combined 6 MSAs	13%

- AT&T's Recent Rate Increase in VA is Directly Attributable to the Loss of DSO UNEs (UNE-P) There 1/

1/ Petition of AT&T Communications of Virginia, LLC for Approval to Exceed Price Ceilings, PUC-2007-00090 (VA SCC, filed Oct. 12, 2007).

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THE FEDERAL GOVERNMENT AS CONSUMER RECENTLY TOLD STATE REGULATORS THAT VERIZON FACES INSUFFICIENT COMPETITION TO WARRANT ADDITIONAL DEREGULATION

"...Enterprise users such as federal agencies need more competition for retail services…there are several indications that actual competition is inadequate."

"…competition has not been sufficient to limit Verizon's pricing power…Verizon has been increasing its rates…."

" If there were strong competition, as Verizon contends, the company would not be increasing its prices…."

"…the quality of Verizon's services has been deficient. If there were strong competition, as Verizon asserts, the company would be forced to maintain high quality services so that customers do not switch…."

"…intermodal competition often has a number of major shortcomings, especially for business users."

THE FEDERAL GOVERNMENT AS CONSUMER RECENTLY TOLD STATE REGULATORS THAT VERIZON FACES INSUFFICIENT COMPETITION TO WARRANT ADDITIONAL DEREGULATION (cont'd)

- "Verizon's recent actions to increase charges for services to its business users, particularly in the New York City area where competition should be the most intense, show that the company still has a great deal of market power throughout its service area."
- "…there is not much wireline competition as federal agencies would like in order to help control telecommunications prices."
- "By any reasonable standard, [Verizon] has great market power."
- "…wireline competition has not been increasing. Indeed, for the first half of 2006, there was a decline in the amount of competition in New York State…."
- "…it is unlikely that wireline competition will increase much in the near future…mergers have eliminated alternative suppliers of telecommunications services."

THE FEDERAL GOVERNMENT AS CONSUMER RECENTLY TOLD STATE REGULATORS THAT VERIZON FACES INSUFFICIENT COMPETITION TO WARRANT ADDITIONAL DEREGULATION (cont'd)

- "Deficiencies in the quality of Verizon's services in New York State also show that competition has been inadequate."
- "…for the vast majority of business subscribers in the State of New York, intermodal telecommunications services do not represent a viable substitute for the traditional landline offerings of the incumbent…and…do nothing to diminish or constrain the market power of [Verizon]."
- "…services offered by cable companies are often not a significant part of the competitive marketplace for business and government users."

*****All quotations taken for the Initial Comments of the United States Department of Defense and All Other Federal Executive Agencies, filed on October 22, 2007 in Case No. 06-C-0897 before the New York Public Service Commission*****

- Verizon Has Failed to Prove the Existence of Adequate Loop-Based Competition
- The Retail Rate Increases Likely to Result from Forbearance Fail the “Public Interest” Test

THE COMMISSION MUST “JUST SAY NO”

COMPARISON CHART

OMAHA FORBEARANCE ORDER FRAMEWORK AND REQUIREMENTS	SHOWING MADE BY VERIZON IN 6-MSA FORBEARANCE DOCKET (WC Docket No. 06-172)	RECORD EVIDENCE IN VERIZON 6-MSA FORBEARANCE DOCKET (WC Docket No. 06-172)
<u>Competitive Facilities Coverage</u>: Petitioning party must show separately for each product market that competitors have constructed competing last-mile facilities in a wire center and that each of those competitors is willing and able to use its facilities, including its own loop facilities, within a commercially reasonable period of time to provide a full range of services that are substitutes for the ILEC's local services to 75% of the end user locations in the wire center.	The only data submitted by Verizon that is directed to this requirement is competitive fiber route maps.[1] The fiber route maps <u>do not meet this standard</u>. The fiber maps: ▪ Are not product and geographic market specific, so cannot be measured against the 75% coverage requirement. (The only wire center-specific data filed by Verizon is not limited to carriers using their own last-mile facilities.) ▪ Do not identify the fiber providers Verizon claims are operating each route. ▪ Do not identify the extent to which this fiber can be used to provide competitively-available local telecom services, so they do not address the substitutability requirement. ▪ Fail to acknowledge that passing a location does not necessarily enable the fiber owner to provide service at that location.	Commenters have shown that in the vast majority of cases commercial buildings are not located directly on competitive fiber routes and that additional facilities must be constructed in order to serve customers via fiber.[2] XO, for example, has shown that its fiber passes only, on average, between 1.6% and 6% of commercial buildings in the affected markets.[3] In any event, the time and costs associated with additional construction are significant. Realistically, competitive fiber providers cannot add a customer location to their network unless customer demand at the location exceeds three DS3's of capacity.[4]

OMAHA FORBEARANCE ORDER FRAMEWORK AND REQUIREMENTS	SHOWING MADE BY VERIZON IN 6-MSA FORBEARANCE DOCKET (WC Docket No. 06-172)	RECORD EVIDENCE IN VERIZON 6-MSA FORBEARANCE DOCKET (WC Docket No. 06-172)
Use of Competitive Last-Mile Facilities: Petitioning party must show separately for each product market that competitors are actually using their last-mile facilities to provide substitutable local telecom services to end users in each wire center.	The only data submitted by Verizon that addresses this requirement is several lists of competitor carrier lit buildings and circuits.[5] The lists do not meet this standard. The lists: ▪ Are not product and geographic market specific. ▪ Do not show competitors are using fiber to provide commercially-available local telecom services.	The GeoResults industry-wide lit building data filed in the docket and the carrier-specific lit building data submitted by XO prove that competitive carriers actually serve a miniscule number (and percentage) of end user locations via their own facilities (including last-mile facilities) in any given wire center within the 6 MSAs at issue.[6]
Market Penetration: Petitioning party must show separately for each product market that facilities-based competitive carriers have been successful in winning customers. Verizon and competitive carriers must be shown to have roughly equal market positions.	Verizon has produced no credible data showing the product market-specific customer penetration achieved by individual facilities-based competitive carriers. Verizon's "proof" is limited to E911 database-derived line counts and MSA-level lit building circuit counts for selective individual competitive carriers.[7]	The record in this docket shows: ▪ Carrier line counts culled by Verizon from the E911 database are not an accurate measure of CLEC market presence.[8] o E911 database line counts inflate CLEC market penetration.[9] o Verizon's E911 line counts do not specify facilities-based market penetration.[10] ▪ Mass market penetration by cable companies does not come close to meeting the *Omaha* standard. Penetration levels are

OMAHA FORBEARANCE ORDER FRAMEWORK AND REQUIREMENTS	SHOWING MADE BY VERIZON IN 6-MSA FORBEARANCE DOCKET (WC Docket No. 06-172)	RECORD EVIDENCE IN VERIZON 6-MSA FORBEARANCE DOCKET (WC Docket No. 06-172)
		generally half or less than those found in Omaha.[11] ▪ Cable facilities cannot routinely be used to serve enterprise customers.[12] ▪ Competitive carriers today serve a miniscule number (and percentage) of end user locations via their own fiber facilities (including last-mile facilities) in any given wire center within the 6 MSAs at issue.[13]
<u>Multiple Competitors</u>: Petitioning party must show separately for each product and geographic market that there are multiple facilities-based competitive carriers providing substitutable local telecom services to end users in each wire center.	Verizon has produced no data for each product and geographic market showing service by multiple facilities-based competitive carriers. Verizon's "evidence" of competition is limited to E911 database-derived line counts and MSA-level lit building circuit counts for selective individual competitive carriers.[14]	Sustainable competition by multiple facilities-based carriers does not exist today in any product or geographic market. The record shows: In the mass market – ▪ Cable companies compete but have not achieved close to the market penetration that Cox enjoyed in Omaha.[15] ▪ No other competitive carriers provide mass market service using their own local loop facilities.[16] In the enterprise market – ▪ Cable companies are unable today to use their own facilities to offer the types of

OMAHA FORBEARANCE ORDER FRAMEWORK AND REQUIREMENTS	SHOWING MADE BY VERIZON IN 6-MSA FORBEARANCE DOCKET (WC Docket No. 06-172)	RECORD EVIDENCE IN VERIZON 6-MSA FORBEARANCE DOCKET (WC Docket No. 06-172)
		services required by most enterprise businesses.[17] ▪ Non-cable competitors today serve a miniscule percentage of enterprise customers via their own facilities (including last-mile facilities) in any given wire center within the 6 MSAs at issue.[18]
<u>Wholesale Market Incentives</u>: Petitioning party must show that in the absence of a Section 251 unbundling requirement, it would have the incentive and ability to make attractive wholesale offerings available to competitors who do not have their own last-mile facilities.	Verizon asks the Commission to trust that it will make its loop and transport facilities available on a wholesale basis at just and reasonable and non-discriminatory rates and terms if forbearance is granted.[19] Verizon points to Wholesale Advantage agreements for UNE (*i.e.*, local switching) replacement facilities as evidence it will "do the right thing."[20]	The record is replete with evidence from Omaha that the Commission cannot rely on a prediction that post-forbearance Verizon will treat competitors that require access to its loops and transport fairly.[21] No such commercially-reasonable wholesale deal was offered in Omaha.[22] As a result, McLeodUSA intends to withdraw from that market, and Integra will not enter.[23] Verizon's Wholesale Advantage agreements do not provide CLECs with an economically-viable opportunity to compete.[24] Verizon has been unwilling to make a DS0 loop replacement product available to CLECs.[25] Verizon represents that its special access services will be

OMAHA FORBEARANCE ORDER FRAMEWORK AND REQUIREMENTS	SHOWING MADE BY VERIZON IN 6-MSA FORBEARANCE DOCKET (WC Docket No. 06-172)	RECORD EVIDENCE IN VERIZON 6-MSA FORBEARANCE DOCKET (WC Docket No. 06-172)
		appropriate DS1 and DS3 loop and transport replacements. The record here and in WC Doc. No. 05-25 shows that the special access market is not competitive and that Verizon is earning supracompetitive rates-of-return on its special access products.[26]
<u>Special Access Usage</u>: Use of Verizon's special access services by competitors is only relevant to the Commission's forbearance analysis once it has been determined for each product and geographic market that multiple competitors have the required facilities coverage and have achieved considerable market share.	Verizon has submitted special access demand and revenue data in an effort to show that competition would be preserved even if CLECs could not access loop and transport UNEs and could only obtain Verizon's special access services.[27]	The record evidence is that Verizon's data: ▪ Is not relevant because the threshold requirements of facilities coverage and market penetration have not been met.[28] ▪ Is unreliable and misleading because Verizon: o Fails to include only special access used to provide local telecom service.[29] o Fails to identify special access that CLECs are forced to use because they are unable to access UNEs.[30] o Presents its data based on VGE capacity rather than number of circuits or customers served.[31]

OMAHA FORBEARANCE ORDER FRAMEWORK AND REQUIREMENTS	SHOWING MADE BY VERIZON IN 6-MSA FORBEARANCE DOCKET (WC Docket No. 06-172)	RECORD EVIDENCE IN VERIZON 6-MSA FORBEARANCE DOCKET (WC Docket No. 06-172)

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1 *In the Matter of Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Boston Metropolitan Statistical Area*, WC Docket No. 06-172, Petition of the Verizon Telephone Companies for Forbearance ("Boston Petition"), Declaration of Quintin Lew, Judy Verses and Patrick Garzillo Regarding Competition in the Boston Metropolitan Statistical Area, Exhibits 5, 6 (filed Sept. 6, 2006) ("Boston Declaration"); *In the Matter of Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the New York Metropolitan Statistical Area*, WC Docket No. 06-172, Petition of the Verizon Telephone Companies for Forbearance ("New York Petition"), Declaration of Quintin Lew, Judy Verses and Patrick Garzillo Regarding Competition in the New York Metropolitan Statistical Area, Exhibits 5, 6 (filed Sept. 6, 2006) ("New York Declaration"); *In the Matter of Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Philadelphia Metropolitan Statistical Area*, WC Docket No. 06-172, Petition of the Verizon Telephone Companies for Forbearance ("Philadelphia Petition"), Declaration of Quintin Lew, Judy Verses and Patrick Garzillo Regarding Competition in the Philadelphia Metropolitan Statistical Area, Exhibits 5, 6 (filed Sept. 6, 2006) ("Philadelphia Declaration"); *In the Matter of Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Pittsburgh Metropolitan Statistical Area*, WC Docket No. 06-172, Petition of the Verizon Telephone Companies for Forbearance ("Pittsburgh Petition"), Declaration of Quintin Lew, Judy Verses and Patrick Garzillo Regarding Competition in the Pittsburgh Metropolitan Statistical Area, Exhibits 5, 6 (filed Sept. 6, 2006) ("Pittsburgh Declaration"); *In the Matter of Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Providence Metropolitan Statistical Area*, WC Docket No. 06-172, Petition of the Verizon Telephone Companies for Forbearance ("Providence Petition"), Declaration of Quintin Lew, Judy Verses and Patrick Garzillo Regarding Competition in the Providence Metropolitan Statistical Area, Exhibits 5, 6 (filed Sept. 6, 2006) ("Providence Declaration"); *In the Matter of Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Virginia Beach Metropolitan Statistical Area*, WC Docket No. 06-172, Petition of the Verizon Telephone Companies for Forbearance ("Virginia Beach Petition"), Declaration of Quintin Lew, Judy Verses and Patrick Garzillo Regarding Competition in the Virginia Beach Metropolitan Statistical Area, Exhibits 5, 6 (filed Sept. 6, 2006) ("Virginia Beach Declaration").

2 *See* Opposition of Time Warner Telecom Inc., Cbeyond Inc., and One Communications Corp., WC Docket No. 06-172 (filed Mar. 5, 2007) ("TWTC et al. Opposition"), at 43-45.

3 *Ex Parte* Letter from John J. Heitmann, Counsel to XO Communications, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission (Oct. 30, 2007) at 10 (Table 7) ("XO's Supplemental Data on Commercial Lit Buildings"); *Ex Parte* Letter from Brad E. Mutschelknaus, Counsel to Covad Communications Group, NuVox Communications and XO Communications, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission (Nov. 5, 2007) at 7-8 ("XO's Supplemental Data on Loop Based Competition").

4 *Id.*, at 10, n. 11 (citing Declaration of Ajay Govil on Behalf of XO Communications, LLC, in WC Docket No. 05-25 and RM-10593). *See also* TWTC et al. Opposition, at 17, 20-21, 22.

5 Reply Comments of the Verizon Telephone Companies ("Verizon Reply Comments"), Reply Declaration of Quintin Lew, John Wimsatt and Patrick Garzillo, WC Docket No. 06-172 ("Verizon Reply Declaration") (filed Apr. 18, 2007), at Exhibit 9.

6 Comments of Covad Communications Group, NuVox Communications and XO Communications, LLC, WC Docket No. 06-172 (filed Mar. 5, 2007) ("XO et al. Comments"), at 47-49; XO's Supplemental Data on Commercial Lit Buildings; TWTC et al. Opposition, at 44-45.

7 Verizon Reply Declaration, at Exhibits 1.A-1.F, 2, 4, 9.

8 Comments of Cox Communications, Inc., WC Docket No. 06-172 (filed Mar. 5, 2007) ("Cox Comments"), at 27, 32; XO et al. Comments, at 12-14, Exhibit 1 (Declaration of Joseph Gillan) and Exhibit 2 (Declaration of Lisa R. Youngers); *Ex Parte* Letter from Joint CLECs to Marlene H. Dortch, Secretary, Federal Communications Commission (Sept. 4, 2007), at 13-21 and Supplemental Declaration of Joseph Gillan ("Joint CLECs' Comments on E911 Data"); *Ex Parte* Presentation of Covad Communications Group, NuVox Communications and XO Communications, LLC, WC Docket No. 06-172 (filed Sept. 21, 2007), at 8; XO's Supplemental Data on Loop Based Competition, at 2-7.

9 *Id.*

10 Comments of Comcast Corporation, WC Docket No. 06-172 (filed Mar. 5, 2007) ("Comcast Comments"), at 4; Cox Comments, at 25, 31; Opposition of Charter Communications, Inc., WC Docket No. 06-172 (filed Apr. 18, 2007) ("Charter Opposition"), at 4-5; Comments of Time Warner Cable, WC Docket No. 06-172 (filed Mar. 5, 2007) ("TWC Comments"), at 12; TWTC et al. Opposition, at 15-17; *Ex Parte* Letter from Philip J. Macres, Counsel to RCN Telecom Services, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission (Oct. 9, 2007) (transmitting data requested by Commission Staff) ("RCN Data *Ex Parte*"); *Ex Parte* Letter from Brian W. Murray, Counsel to Time Warner Cable, to Marlene H. Dortch, Secretary, Federal Communications Commission (Oct. 9, 2007) (transmitting data requested by Commission Staff) ("TWC Data *Ex Parte*") .

11 Charter Opposition, at 4-5; Comcast Comments, at 4; Cox Comments, at 25-26, 27, 32; TWC Comments, at 4-5; Reply Comments of Covad Communications Group, NuVox Communications, and XO Communications, LLC (filed Apr. 18, 2007) ("XO et al. Reply Comments"), at 13-14; RCN Data *Ex Parte*; TWC Data *Ex Parte*; XO's Supplemental Data on Loop-Based Competition, at 5-7.

12 *Ex Parte* Letter from Genevieve Morelli, Counsel to Covad Communications Group, NuVox Communications and XO Communications, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission (Oct. 25, 2007) (transmitting comments of the Department of Defense and the Federal Executive Agencies in proceedings before the New York Public Service Commission and Virginia State Corporation Commission) ("DOD/FEA Submissions"); *see also* Comments in Opposition of ACN Communications Services, Inc., et al. (filed Mar. 5, 2007) ("ACN et al. Opposition"), at 27; Comcast Comments, at 4-5; Cox Comments, at 27-28; TWC Comments, at 19-21; TWTC et al. Opposition, at 38-47; XO et al. Reply Comments, at 13-17.

13 *See* XO's Supplemental Data on Loop-Based Competition, at 5-8.

14 *See infra,* at n. 7.

15 Charter Opposition, at 4-5; Comcast Comments, at 4; Cox Comments, at 25-26, 31-32; XO et al. Reply Comments, at 13-14; RCN Data *Ex Parte*; TWC Data *Ex Parte*; XO's Supplemental Data on Loop-Based Competition, at 5-7.

16 Cox Comments, at 26-27; *see also* Charter Comments, at 3-4; Comcast Comments, at 3-4; XO's Supplemental Data on Loop-Based Competition.

[17] DOD/FEA Submissions; *see also* ACN et al. Opposition, at 27; Comcast Comments, at 4-5; Cox Comments, at 27-28; TWC Comments, at 19-21; TWTC et al. Opposition, at 38-47; XO et al. Reply Comments, at 13-17.

[18] Joint CLECs' Comments on E911 Data, at 9-11; XO et al. Comments, at 47-49; XO's Supplemental Data on Commercial Lit Buildings; TWTC et al. Opposition, at 44-45.

[19] *See* Boston Petition, at 14-15; New York Petition, at 14-15; Philadelphia Petition, at 14-16; Pittsburgh Petition, at 14-15; Providence Petition, at 13-14; Virginia Beach Petition, at 13-15; *see also* Verizon Reply Comments, at 32 and Reply Declaration, at ¶ 51.

[20] *Id.*

[21] Letter from Philip J. Macres, Bingham, Counsel to Alpheus Communications, L.P. et al. to Marlene H. Dortch, Secretary, Federal Communications Commission (Jul. 10, 2007), at 4-14 ("Ex Parte Letter on Loop Unbundling"); Joint CLECs' Comments on E911 Data; *see also* ACN et al. Comments, at 34-35; Opposition of Cavalier Telephone Subsidiaries to Verizon's Petitions for Forbearance (filed Mar. 5, 2007), at 12; Comments of the City of Philadelphia (filed Mar. 5, 2007), at 25; Opposition of Monmouth Telephone & Telegraph, Inc. (filed Mar. 5, 2007), at 12; Sprint Nextel's Opposition to Petitions for Forbearance (filed Mar. 5, 2007), at 17-18; Telecom Investors' Opposition (filed Mar. 5, 2007), at 3; XO et al. Comments, at 52-53, 54; XO et al. Reply Comments, at 8-9, 20-22.

[22] *Ex Parte* Letter on Loop Unbundling, at 4-6 (footnotes omitted); XO et al. Comments, at 54.

[23] Joint CLECs' Comments on E911 Data, at 10-11 (citing *In the Matter of Qwest Corporation Petition for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area*, WC Docket No. 04-223, Petition for Modification of McLeodUSA Telecommunications Services, Inc., (filed Jul. 23, 2007)); Comments of Integra Telecom, Inc. (filed Mar. 5, 2007), at 4. *See also* XO et al. Comments, at 54 (citing Letter from Chris McFarland, Group Vice President, McLeodUSA to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-281 (Dec. 15, 2006)).

[24] ACN et al. Comments, at 33; XO et al. Comments, at 52; XO et al. Reply Comments, at 8-9.

[25] *Ex Parte* Letter on Loop Unbundling, at 6-7 (footnotes omitted).

[26] Joint CLECs' Comments on E911 Data, at 21-28; *see also*, ACN et al. Comments, at 39; XO et al. Comments, at 55-58; TWTC et al. Comments, at 31-32.

[27] *See* Verizon Reply Declaration, at Exhibits 5, 6, 7 and 10.

[28] Joint CLECs' Comments on E911 Data, at 21-28.

[29] *Id.*, at 22-23.

[30] *Id.*, at 23.

[31] *Id.* 23-24.

AGREEMENT EXCERPTS

RATES NEGOTIATED BETWEEN VERIZON AND AT&T FOR THE LEASE OF DSO LOOP FACILITIES IN DELAWARE, MASSACHUSETTS, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, PENNSYLVANIA, RHODE ISLAND AND VIRGINIA

[Excerpts from Attachment 2 to Amendment 2 of negotiated agreement for interconnection between Verizon and AT&T]

Attachment 2 to Amendment to Interconnection Agreements

Terms and Conditions

A. From the Effective Date through May 31, 2008, Verizon shall bill, and AT&T shall pay, the monthly recurring DS0 loop charges set forth in Appendix A to this Attachment 2, which charges shall replace the monthly recurring DS0 loop charges previously set forth in the Agreement for the same loop types in the same service territories. Appendix A to this Attachment 2 may contain rates and charges for (and/or reference) services, facilities, arrangements and the like that Verizon does not have an obligation to provide under the Agreement (e.g., services, facilities, arrangements and the like for which an unbundling requirement does not exist under 47 U.S.C. Section 251(c)(3)). Notwithstanding any such rates and/or charges (and/or references) and, for the avoidance of any doubt, nothing in this Amendment shall be deemed to require Verizon to provide such a service, facility, arrangement or the like that the Agreement does not otherwise require Verizon to provide, or to provide such a service, facility, arrangement or the like upon terms or conditions other than those that may be required by the Agreement.

B. From the Effective Date through May 31, 2008, the discount rates applicable to the services that Verizon is required to make available to AT&T for resale pursuant to the Interconnection Agreements or Applicable Law shall be those discount rates set forth in Appendix B to this Attachment 2, notwithstanding any other resale discount rates that may go into effect in a particular state, whether by virtue of a change of law or pursuant to a tariff filed by Verizon. For the avoidance of doubt, this Amendment does not affect which services Verizon is obligated to provide to AT&T for resale under the Interconnection Agreements or Applicable Law, but only the discount rate at which Verizon makes any such resale service available under Section 251(c)(4) of the Act.

C. Notwithstanding any other provision of the Interconnection Agreements, this Amendment, any applicable tariff or SGAT, or otherwise, the terms contained herein shall govern the relationship of the Parties with respect to the subject matter set forth herein, through May 31, 2008, and thereafter as well until such time as such terms are superseded by a subsequent Interconnection Agreement or Interconnection Agreement amendment effective after May 31, 2008. In case of the expiration or termination of an Interconnection Agreement prior to May 31, 2008, the terms contained herein shall nevertheless continue to remain in effect through May 31, 2008 and thereafter until such time as such terms are superseded by a subsequent Interconnection Agreement effective after May 31, 2008.

2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1B - $11.31/Month

Unbundled Loops – District of Columbia

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.00/Month
ISDN BRI Loop	Density Cell: 1 - $17.52/Month
Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.00/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $17.52/Month

Unbundled Loops – Delaware

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.00/Month 2 - $13.13/Month 3 - $16.67/Month
ISDN BRI Loop	Density Cell: 1 - $11.68/Month 2 - $14.70/Month 3 - $18.21/Month
Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.00/Month 2 - $13.13/Month 3 - $16.67/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.68/Month 2 - $14.70/Month 3 - $18.21/Month

Unbundled Loops – Massachusetts

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.00/Month 2 - $11.37/Month 3 - $15.41/Month 4 - $24.32/Month
ISDN BRI Loop	Density Cell: 1 - $13.30/Month 2 - $12.93/Month 3 - $17.96/Month 4 - $29.50/Month
Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.00/Month 2 - $11.37/Month 3 - $15.41/Month 4 - $24.32/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.00/Month 2 - $11.37/Month 3 - $15.41/Month 4 - $24.32/Month

Unbundled Loops – Maryland

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Rate Group A1 - $11.00/Month A2 - $11.00/Month B1 - $21.92/Month B2 - $14.45/Month
ISDN BRI Loop	Rate Group A1 - $12.38/Month A2 - $12.62/Month B1 - $24.20/Month B2 - $16.73/Month

Unbundled Loops – Michigan

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $23.98/Month
2 Wire Digital Loop	Density Cell: 1 - $23.98/Month

Unbundled Loops – Nevada

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $27.41/Month
2 Wire Digital Loop	Density Cell: 1 - $27.41/Month
2-Wire Channelized Additional Cost of Unbundling	Density Cell: 1 - $12.45/Month
ISDN-BRI Loop	Density Cell 1 - $59.77/Month
ISDN-BRI Channelized Additional Cost of Unbundling	Density Cell: 1 - $36.50/Month
ADSL High Capacity Loop	Density Cell: 1 - $75.22/Month

Unbundled Loops – New Hampshire

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.97/Month 2 - $16.04/Month 3 - $25.00/Month
ISDN BRI Loop	Density Cell: 1 - $31.63/Month 2 - $33.41/Month 3 - $63.74/Month

Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.97/Month 2 - $16.04/Month 3 - $25.00/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.97/Month 2 - $16.04/Month 3 - $25.00/Month

Unbundled Loops – New Jersey

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.00/Month 2 - $11.00/Month 3 - $11.82/Month
ISDN BRI Loop	Density Cell: 1 - $12.13/Month 2 - $13.74/Month 3 - $15.14/Month
Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.00/Month 2 - $11.00/Month 3 - $11.82/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.00/Month 2 - $11.00/Month 3 - $11.82/Month

Unbundled Loops – New York

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1A - $11.00/Month 1B - $11.31/Month 2 - $15.51/Month

ISDN BRI Loop	Density Cell: 1A - $11.93/Month 1B - $16.70/Month 2 - $22.70/Month
Customer Specified Signaling - 2-Wire Ground Start Customer Specified Signaling - 2-Wire Reverse Battery Customer Specified Signaling - 2-Wire EBS	Density Cell: 1A - $11.00/Month 1B - $14.21/Month 2 - $18.42/Month 1A - $12.47/Month 1B - $16.04/Month 2 - $20.25/Month 1A - $23.98/Month 1B - $27.47/Month 2 - $31.72/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1A - $11.00/Month 1B - $11.31/Month 2 - $15.51/Month

Unbundled Loops – North Carolina

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $19.68/Month 2 - $38.12/Month 3 - $49.31/Month
ISDN-BRI Loop	Density Cell: 1 - $42.92/Month 2 - $83.13/Month 3 - $107.51/Month
2 Wire ADSL/IDSL/SDSL Loop	Density Cell 1 - $54.02/Month 2 - $104.62/Month 3 - $135.31/Month

2 Wire HDSL Loop	Density Cell: 1 - $60.39/Month 2 - $116.97/Month 3 - $151.28/Month

Unbundled Loops – Ohio

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $15.73/Month
2 Wire Digital Loop	Density Cell: 1 - $15.73/Month

Unbundled Loops – Oregon

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $14.36/Month 2 - $25.83/Month 3 - $50.16/Month
2 Wire Digital Loop	Density Cell: 1 - $14.36/Month 2 - $25.83/Month 3 - $50.16/Month

Unbundled Loops – Pennsylvania (Verizon Pennsylvania Inc.)

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.00/Month 2 - $11.00/Month 3 - $12.39/Month 4 - $22.39/Month
ISDN BRI Loop	Density Cell: 1 - $11.00/Month 2 - $11.00/Month 3 - $13.90/Month 4 - $23.66/Month

Customer Specified Signaling - 2-Wire	Density Cell: 1 - $13.54/Month 2 - $16.26/Month 3 - $19.36/Month 4 - $28.11/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.00/Month 2 - $11.00/Month 3 - $12.39/Month 4 - $22.39/Month

Unbundled Loops - Pennsylvania (Verizon North Inc.)

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 3 - $12.39/Month 4 - $22.39/Month
2 Wire Digital Loop	Density Cell: 3 - $12.39/Month 4 - $22.39/Month

Unbundled Loops – Rhode Island

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.19/Month 2 - $15.44/Month 3 - $19.13/Month
ISDN BRI Loop	Density Cell: 1 - $24.92/Month 2 - $31.74/Month 3 - $28.73/Month
Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.19/Month 2 - $15.44/Month 3 - $19.13/Month

2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.19/Month 2 - $15.44/Month 3 - $19.13/Month

Unbundled Loops -- South Carolina

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $18.00/Month
2 Wire Digital Loop	Density Cell: 1 - $18.00/Month

Unbundled Loops – Texas

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $13.63/Month 2 - $35.45/Month 3 - $78.77/Month
2 Wire Digital Loop	Density Cell: 1 - $13.63/Month 2 - $35.45/Month 3 - $78.77/Month

Unbundled Loops – Virginia (Verizon Virginia Inc.)

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.89/Month 2 - $15.26/Month 3 - $28.43/Month
ISDN BRI Loop	Density Cell: 1 - $14.15/Month 2 - $17.09/Month 3 - $30.42/Month

Customer Specified Signaling - 2-Wire	Density Cell: 1 - $16.76/Month 2 - $19.69/Month 3 - $32.98/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.89/Month 2 - $15.26/Month 3 - $28.43/Month

Unbundled Loops - Virginia (Verizon South Inc.)

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $14.99/Month 2 - $17.94/Month 3 - $24.44/Month
2 Wire Digital Loop	Density Cell: 1 - $14.99/Month 2 - $17.94/Month 3 - $24.44/Month

Unbundled Loops – Vermont

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.00/Month 2 - $11.00/Month 3 - $21.63/Month
ISDN BRI Loop	Density Cell: 1 - $13.27/Month 2 - $16.08/Month 3 - $51.60/Month
Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.00/Month 2 - $11.00/Month 3 - $21.63/Month

Attachment 2 to Amendment to Interconnection Agreements

Terms and Conditions

A. From the Effective Date through May 31, 2008, Verizon shall bill, and AT&T shall pay, the monthly recurring DS0 loop charges set forth in Appendix A to this Attachment 2, which charges shall replace the monthly recurring DS0 loop charges previously set forth in the Agreement for the same loop types in the same service territories. Appendix A to this Attachment 2 may contain rates and charges for (and/or reference) services, facilities, arrangements and the like that Verizon does not have an obligation to provide under the Agreement (e.g., services, facilities, arrangements and the like for which an unbundling requirement does not exist under 47 U.S.C. Section 251(c)(3)). Notwithstanding any such rates and/or charges (and/or references) and, for the avoidance of any doubt, nothing in this Amendment shall be deemed to require Verizon to provide such a service, facility, arrangement or the like that the Agreement does not otherwise require Verizon to provide, or to provide such a service, facility, arrangement or the like upon terms or conditions other than those that may be required by the Agreement.

B. From the Effective Date through May 31, 2008, the discount rates applicable to the services that Verizon is required to make available to AT&T for resale pursuant to the Interconnection Agreements or Applicable Law shall be those discount rates set forth in Appendix B to this Attachment 2, notwithstanding any other resale discount rates that may go into effect in a particular state, whether by virtue of a change of law or pursuant to a tariff filed by Verizon. For the avoidance of doubt, this Amendment does not affect which services Verizon is obligated to provide to AT&T for resale under the Interconnection Agreements or Applicable Law, but only the discount rate at which Verizon makes any such resale service available under Section 251(c)(4) of the Act.

C. Notwithstanding any other provision of the Interconnection Agreements, this Amendment, any applicable tariff or SGAT, or otherwise, the terms contained herein shall govern the relationship of the Parties with respect to the subject matter set forth herein, through May 31, 2008, and thereafter as well until such time as such terms are superseded by a subsequent Interconnection Agreement or Interconnection Agreement amendment effective after May 31, 2008. In case of the expiration or termination of an Interconnection Agreement prior to May 31, 2008, the terms contained herein shall nevertheless continue to remain in effect through May 31, 2008 and thereafter until such time as such terms are superseded by a subsequent Interconnection Agreement effective after May 31, 2008.

2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1B - $11.31/Month

Unbundled Loops – District of Columbia

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.00/Month
ISDN BRI Loop	Density Cell: 1 - $17.52/Month
Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.00/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $17.52/Month

Unbundled Loops – Delaware

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.00/Month 2 - $13.13/Month 3 - $16.67/Month
ISDN BRI Loop	Density Cell: 1 - $11.68/Month 2 - $14.70/Month 3 - $18.21/Month
Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.00/Month 2 - $13.13/Month 3 - $16.67/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.68/Month 2 - $14.70/Month 3 - $18.21/Month

Unbundled Loops – Massachusetts

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.00/Month 2 - $11.37/Month 3 - $15.41/Month 4 - $24.32/Month
ISDN BRI Loop	Density Cell: 1 - $13.30/Month 2 - $12.93/Month 3 - $17.96/Month 4 - $29.50/Month
Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.00/Month 2 - $11.37/Month 3 - $15.41/Month 4 - $24.32/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.00/Month 2 - $11.37/Month 3 - $15.41/Month 4 - $24.32/Month

Unbundled Loops – Maryland

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Rate Group A1 - $11.00/Month A2 - $11.00/Month B1 - $21.92/Month B2 - $14.45/Month
ISDN BRI Loop	Rate Group A1 - $12.38/Month A2 - $12.62/Month B1 - $24.20/Month B2 - $16.73/Month

Unbundled Loops – Michigan

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $23.98/Month
2 Wire Digital Loop	Density Cell: 1 - $23.98/Month

Unbundled Loops – Nevada

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $27.41/Month
2 Wire Digital Loop	Density Cell: 1 - $27.41/Month
2-Wire Channelized Additional Cost of Unbundling	Density Cell: 1 - $12.45/Month
ISDN-BRI Loop	Density Cell 1 - $59.77/Month
ISDN-BRI Channelized Additional Cost of Unbundling	Density Cell: 1 - $36.50/Month
ADSL High Capacity Loop	Density Cell: 1 - $75.22/Month

Unbundled Loops – New Hampshire

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.97/Month 2 - $16.04/Month 3 - $25.00/Month
ISDN BRI Loop	Density Cell: 1 - $31.63/Month 2 - $33.41/Month 3 - $63.74/Month

Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.97/Month 2 - $16.04/Month 3 - $25.00/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.97/Month 2 - $16.04/Month 3 - $25.00/Month

Unbundled Loops – New Jersey

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.00/Month 2 - $11.00/Month 3 - $11.82/Month
ISDN BRI Loop	Density Cell: 1 - $12.13/Month 2 - $13.74/Month 3 - $15.14/Month
Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.00/Month 2 - $11.00/Month 3 - $11.82/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.00/Month 2 - $11.00/Month 3 - $11.82/Month

Unbundled Loops – New York

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1A - $11.00/Month 1B - $11.31/Month 2 - $15.51/Month

ISDN BRI Loop	Density Cell: 1A - $11.93/Month 1B - $16.70/Month 2 - $22.70/Month
Customer Specified Signaling - 2-Wire Ground Start Customer Specified Signaling - 2-Wire Reverse Battery Customer Specified Signaling - 2-Wire EBS	Density Cell: 1A - $11.00/Month 1B - $14.21/Month 2 - $18.42/Month 1A - $12.47/Month 1B - $16.04/Month 2 - $20.25/Month 1A - $23.98/Month 1B - $27.47/Month 2 - $31.72/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1A - $11.00/Month 1B - $11.31/Month 2 - $15.51/Month

Unbundled Loops – North Carolina

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $19.68/Month 2 - $38.12/Month 3 - $49.31/Month
ISDN-BRI Loop	Density Cell: 1 - $42.92/Month 2 - $83.13/Month 3 - $107.51/Month
2 Wire ADSL/IDSL/SDSL Loop	Density Cell 1 - $54.02/Month 2 - $104.62/Month 3 - $135.31/Month

2 Wire HDSL Loop	Density Cell: 1 - $60.39/Month 2 - $116.97/Month 3 - $151.28/Month

Unbundled Loops – Ohio

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $15.73/Month
2 Wire Digital Loop	Density Cell: 1 - $15.73/Month

Unbundled Loops – Oregon

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $14.36/Month 2 - $25.83/Month 3 - $50.16/Month
2 Wire Digital Loop	Density Cell: 1 - $14.36/Month 2 - $25.83/Month 3 - $50.16/Month

Unbundled Loops – Pennsylvania (Verizon Pennsylvania Inc.)

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.00/Month 2 - $11.00/Month 3 - $12.39/Month 4 - $22.39/Month
ISDN BRI Loop	Density Cell: 1 - $11.00/Month 2 - $11.00/Month 3 - $13.90/Month 4 - $23.66/Month

Customer Specified Signaling - 2-Wire	Density Cell: 1 - $13.54/Month 2 - $16.26/Month 3 - $19.36/Month 4 - $28.11/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.00/Month 2 - $11.00/Month 3 - $12.39/Month 4 - $22.39/Month

Unbundled Loops - Pennsylvania (Verizon North Inc.)

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 3 - $12.39/Month 4 - $22.39/Month
2 Wire Digital Loop	Density Cell: 3 - $12.39/Month 4 - $22.39/Month

Unbundled Loops – Rhode Island

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.19/Month 2 - $15.44/Month 3 - $19.13/Month
ISDN BRI Loop	Density Cell: 1 - $24.92/Month 2 - $31.74/Month 3 - $28.73/Month
Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.19/Month 2 - $15.44/Month 3 - $19.13/Month

2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.19/Month 2 - $15.44/Month 3 - $19.13/Month

Unbundled Loops -- South Carolina

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $18.00/Month
2 Wire Digital Loop	Density Cell: 1 - $18.00/Month

Unbundled Loops – Texas

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $13.63/Month 2 - $35.45/Month 3 - $78.77/Month
2 Wire Digital Loop	Density Cell: 1 - $13.63/Month 2 - $35.45/Month 3 - $78.77/Month

Unbundled Loops – Virginia (Verizon Virginia Inc.)

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.89/Month 2 - $15.26/Month 3 - $28.43/Month
ISDN BRI Loop	Density Cell: 1 - $14.15/Month 2 - $17.09/Month 3 - $30.42/Month

Customer Specified Signaling - 2-Wire	Density Cell: 1 - $16.76/Month 2 - $19.69/Month 3 - $32.98/Month
2 Wire ADSL/HDSL/IDSL/SDSL Loop	Density Cell: 1 - $11.89/Month 2 - $15.26/Month 3 - $28.43/Month

Unbundled Loops - Virginia (Verizon South Inc.)

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $14.99/Month 2 - $17.94/Month 3 - $24.44/Month
2 Wire Digital Loop	Density Cell: 1 - $14.99/Month 2 - $17.94/Month 3 - $24.44/Month

Unbundled Loops – Vermont

Service or Element Description:	Recurring Charges:
2 Wire Analog (POTS) Loop	Density Cell 1 - $11.00/Month 2 - $11.00/Month 3 - $21.63/Month
ISDN BRI Loop	Density Cell: 1 - $13.27/Month 2 - $16.08/Month 3 - $51.60/Month
Customer Specified Signaling - 2-Wire	Density Cell: 1 - $11.00/Month 2 - $11.00/Month 3 - $21.63/Month

QSI STUDY

QSI Consulting
Impact Study

AN ANALYSIS OF VERIZON’S PETITION FOR FORBEARANCE
A Quantification of the Impact of Forbearance

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EXECUTIVE SUMMARY

On September 6, 2006, Verizon filed six separate petitions requesting that the Federal Communications Commission ("FCC") forbear the application of certain obligations to Verizon in the Boston, New York, Philadelphia, Pittsburgh, Providence, and Virginia Beach Metropolitan Statistical Areas ("MSAs").[1] Verizon requested in its forbearance petitions "relief that is parallel to the relief granted in the [Qwest] Omaha Forbearance order…"[2] Verizon's requested relief relates to a number of its obligations under the FCC's rules,[3] one of which is forbearance from loop and transport unbundling regulation pursuant to Section 251(c)(3) of the Communications Act of 1934, as amended ("Act").[4] Granting Verizon's Petitions as they relate to unbundling obligations means that loop and transport facilities would no longer be required to be made available at Total Element Long Run Incremental Cost ("TELRIC")-based rates, which are the rates designed to replicate a competitive market for these wholesale services and produce conditions that promote competition in retail markets.

A grant of Verizon's Petitions would impact telecommunications markets in the six MSAs in a number of ways. Not only would Verizon itself be impacted but so would other market participants, such as the various competitive local exchange carriers ("CLECs") which rely in whole or in part on Verizon's loop and transport unbundled

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1 *See* Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Boston Metropolitan Statistical Area, WC Docket No. 06-172 (filed Sept. 6, 2006) (Verizon Boston Petition); Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the New York Metropolitan Statistical Area, WC Docket No. 06-172 (filed Sept. 6, 2006) (Verizon New York Petition); Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Philadelphia Metropolitan Statistical Area, WC Docket No. 06-172 (filed Sept. 6, 2006) (Verizon Philadelphia Petition); Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Pittsburgh Metropolitan Statistical Area, WC Docket No. 06-172 (filed Sept. 6, 2006) (Verizon Pittsburgh Petition); Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Providence Metropolitan Statistical Area, WC Docket No. 06-172 (filed Sept. 6, 2006) (Verizon Providence Petition); Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Virginia Beach Metropolitan Statistical Area, WC Docket No. 06-172 (filed Sept. 6, 2006) (Verizon Virginia Beach Petition) (collectively, "Verizon Petitions").

2 Verizon New York Petition, at 30.

3 Verizon seeks forbearance from (1) loop and transport unbundling obligations pursuant to Section 251(c) of the Telecommunications Act; (2) Part 61 dominant carrier tariffing requirements; (3) Part 61 price cap regulations; (4) *Computer III* requirements including CEI and ONA requirements; and (5) dominant carrier requirements arising under Section 214 of the Act and Part 63 of the FCC's rules concerning the processes for acquiring lines, discontinuing services, assignment or transfers of control, and acquiring affiliations.

4 47 U.S.C. § 251(c)(3).

network elements ("UNEs") and interconnection services, other competitors, such as cable companies, and retail/end-user customers of telecommunications services. Further, because a grant of forbearance would affect regional businesses, due to results ranging from a direct negative impact on regional CLECs (affecting employment and investment in the wholesale telecommunications market) and induced effects of higher overall price levels in retail telecommunications and non-telecommunications markets, the regional economies of the affected MSAs would experience a decrease in their competitiveness relative to the competitiveness of other regions in the United States and the world.[5]

The *QSI Study* focuses on the direct and quantifiable impact of granting Verizon's Petitions as they relate to loop and transport unbundling obligations under Section 251 of the Act. More specifically, if Verizon is no longer required to make available loop and transport facilities at TELRIC-based rates, wholesale prices – *i.e*., the cost of doing business for Verizon's competitors – would increase. Because the ability of competitive entrants to buy essential network facilities at economic cost has created a disciplining force for retail telecommunications prices, forbearance would, in turn, cause an increase in prices for telecommunications services to consumers in the six MSAs at issue. Current pricing trends and Regional Bell Operating Company ("RBOC") proposals indicate that absent the TELRIC pricing standard, prices of Verizon's network elements would be at least at the level of its special access prices. This follows from experience with the incumbent local exchange carriers' ("ILECs") reactions to previous changes in unbundling requirements. Competitors that currently rely on Verizon's loop and transport UNEs can expect to pay Verizon's special access rates for the same facilities if the Petitions are granted.[6] Because special access prices are significantly higher than

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[5] While some may argue that making UNEs available harms broadband availability and lowers investment incentives, the Phoenix Center studied that issue and concluded, "This study adds to the mounting work showing that wholesale network access requirements (like unbundling) do not dampen broadband availability or investment incentives more generally. To the contrary, the analysis contained herein strongly shows that states that have established relatively lower rates for unbundled loop access have enjoyed *more* consumer choice and have seen more deployment of broadband technology within their borders." Phoenix Center Policy Paper Series, *Phoenix Center Policy Paper Number 19, The Positive Effects of Unbundling on Broadband Deployment*, September, 2004, at 12.

[6] For example, in Maine PUC Docket No. 2002-682, Verizon took the position that its Section 271 obligation is fulfilled by making Section 271 checklist items available at special access rates. *See Opposition to Verizon's Petitions of ACN, Alpheus, ATX, Broadwing, Cavalier, CityNet, CloseCall, CTSI, DSLnet, InfoHighway, Globalcom, ITC^DeltaCom, McLeodUSA, Mpower, Norlight, Penn Telecom, RCN, RNK, segTEL, Talk America, TDS Metrocom, and Telepacific*, WC Docket No. 06-172 (filed Mar. 6, 2007), at 39 ("*ACN, et al., Opposition*"). Further, special access loop and transport products became a substitute for high-capacity UNE loops and transport in wire centers that were given a status of non-impaired under the FCC's Triennial Review Remand Order ("*TRRO*"). *See, e.g*., Qwest's proposal for Section 271 pricing in Minnesota. *In the Matter of a Potential Proceeding to Investigate the Wholesale Rate Charged by Qwest*, Docket #P-421/CI-05-1996**.**

TELRIC-based prices, higher wholesale rates would impair the ability of competitors – and potential entrants – to discipline retail rates.

Furthermore, as observed by a recent U.S. Government Accountability Office ("GAO") Report,[7] ILECs are increasing special access prices in MSAs where they have been granted full pricing flexibility for these services. The GAO Report examined 16 major metropolitan markets for dedicated transport facilities, such as DS1/DS3 loops and transport. The 16 MSAs examined by the GAO include some of the same MSAs for which Verizon is seeking forbearance.[8] The GAO Report concluded:

> [I]n areas where the FCC granted full pricing flexibility due to the presumed presence of competitive alternatives, list prices and average revenues *tend to be higher* than or the same as list prices and average revenues in areas still under some FCC price regulation.[9]

While the issues of special access pricing flexibility and forbearance from UNE pricing rules are not identical, the competitive dynamics of telecommunications markets, especially in light of the GAO's findings, demonstrate that a predictable increase in wholesale prices will necessarily place upward pressure on retail/end user prices. Further, given that our analysis is predicated on current special access rates, the GAO's findings also show that our results are conservative for MSAs in which Verizon has been granted special access pricing flexibility, since in the absence of TELRIC-based UNE pricing, those special access rates are likely to go up in the near future if the FCC grants Verizon's Petitions.[10] That is, we have not captured the effects of these second-round price increases, which would lead to further increases in retail telecommunications expenditures.[11]

To determine the impact of a grant of forbearance for loop and transport unbundling obligations, we built a "bottoms up" model to capture the competitive dynamics (*e.g.*, supply and demand responses) of the telecommunications markets in the six MSAs at issue based on the assumption that loop and transport facilities are no longer available at TELRIC rates in the six MSAs and must be purchased out of Verizon's special access

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[7] United States Government Accountability Office, Report to the Chairman, Committee on Government Reform, House of Representatives, *Telecommunications: FCC Needs to Improve Its Ability to Monitor and Determine the Extent of Competition in Dedicated Access Services,* November 2006 ("*GAO Report*").

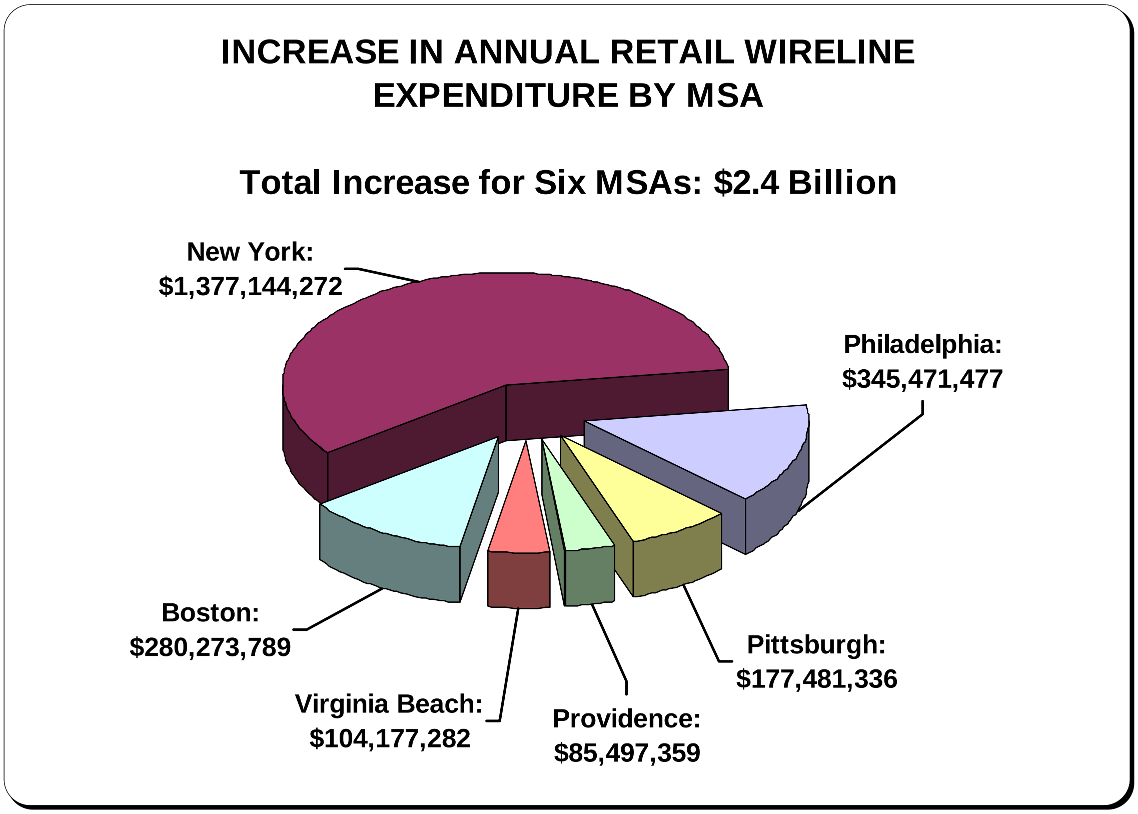
[8] These markets are the New York, New York and Pittsburgh, Pennsylvania MSAs. *See GAO Report,* at 10.

[9] *GAO Report,* at cover page (emphasis supplied).

[10] Verizon has special access pricing flexibility for transport in all six MSAs and pricing flexibility for loops in two of the six MSAs (*i.e.*, Pittsburgh and Virginia Beach).

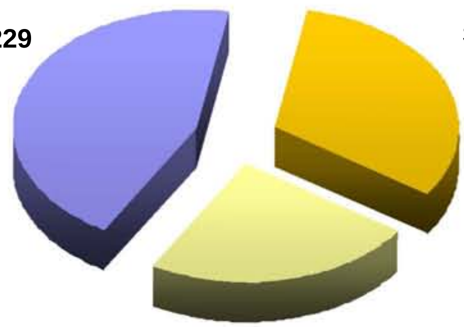
[11] We have not reflected the impact of likely increases in Verizon's non-recurring charges for network elements. This is another reason why our impact analysis is conservative.

tariffs. The impact of this change was then quantified as the absolute increase in annual telecommunications outlay incurred by retail telecommunications customers in the six MSAs. We have estimated this impact by MSA and by product market (including mass market voice, enterprise, and broadband Internet markets). The charts below summarize the estimated increases in annual retail wireline expenditures by MSA for each of these market segments.



INCREASE IN ANNUAL RETAIL WIRELINE EXPENDITURE BY MARKET

Total Increase for Six MSAs: $2.4 Billion



Based on reasonable, conservative assumptions regarding pricing strategies, demand responses, and market dynamics, we estimate that if the FCC grants Verizon its requested forbearance in the six MSAs at issue, then the annual impact in terms of increased telecommunications expenses incurred by customers for retail mass market, enterprise, and broadband Internet services would be $1,054 million, $751 million, and $565 million, respectively – or a combined impact of $2.4 billion *annually*.[12] This translates into a rate increase of $114 annually for an average household.

12 One may also consider the offsetting benefits associated with the *increased profits* that Verizon will be able to extract from these MSAs. In such an analysis, increased profits would be counted on the plus side of an impact analysis. But, while in general corporate profits are a positive event, in the current context it is more appropriate to not recognize an increase in Verizon's corporate profits because those profits would be achieved simply by regulatory fiat – at the expense of end user customers – and would not signify improved efficiencies or other advances generally viewed as genuinely positive and desirable for society. Our approach is further justified by the fact that Verizon makes no demonstration in its Petitions that forbearance is required because of inadequate earnings.

I. DESCRIPTION OF VERIZON'S FORBEARANCE PETITIONS

In its six Petitions, Verizon seeks the same forbearance granted by the FCC to Qwest: "Verizon requests that the Commission grant relief that is parallel to the relief granted in the *Omaha Forbearance Order* and forbear from loop and transport unbundling regulation pursuant to 47 U.S.C. § 251(c) and dominant carrier regulation for switched access services" in the six MSAs.[13] More specifically, Verizon is seeking forbearance from the following:

1. Loop and transport unbundling obligations pursuant to Section 251(c) of the Act;
2. Part 61 dominant carrier tariffing requirements;
3. Part 61 price cap regulations;
4. *Computer III* requirements including CEI and ONA requirements; and
5. Dominant carrier requirements arising under Section 214 of the Act and Part 63 of the FCC's rules concerning the processes for acquiring lines, discontinuing services, assignment or transfers of control, and acquiring affiliations.

This paper will focus on the ramifications of forbearance from the first item: loop and transport obligations pursuant to Section 251(c)(3) of the Act.

Under the *Omaha Forbearance Order*, Qwest is no longer required to provide unbundled access to loop and transport UNEs pursuant to Section 251(c)(3) in nine wire centers located in the Omaha, Nebraska MSA.[14] Our analysis assumes that if Verizon's Petitions are granted as they relate to Section 251(c)(3) unbundling obligations, Verizon, like Qwest in certain wire centers within the Omaha MSA, would no longer be required to provide unbundled access to loops and transport facilities in the six MSAs.

II. FORBEARANCE WILL IMMEDIATELY INDUCE UPWARD PRESSURE ON ***WHOLESALE*** PRICES

Wholesale prices for unbundled loop and transport facilities purchased from Verizon pursuant to Section 251 of the Act are based on the TELRIC pricing standard. If Verizon's Petitions, as they relate to unbundling obligations, are granted, the same loop and transport facilities will no longer be available at TELRIC-based prices; rather,

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13 Verizon New York Petition, at 30.

14 *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area*, Memorandum Opinion and Order, 20 FCC Rcd 19415 (2005) ("*Omaha Forbearance Order*"), at ¶ 2, *aff'd Qwest Corporation v. Federal Communications Commission*, Case No. 05-1450, (D.C. Cir. Mar. 23, 2007) ("*Qwest Omaha*").

carriers will be forced to purchase these facilities under different terms, conditions, and rates, most likely those of Verizon's special access tariff.

A. Pricing Provisions for Loops and Transport Offered Under 47 U.S.C. Section 251(c)(3)

Under the FCC's TELRIC methodology, prices are to be set at the forward-looking economic cost. The economic reason – as expressed by the FCC – for setting the prices for loops and transport offered under Section 251(c)(3) at cost (*i.e.*, TELRIC) is to emulate competitive markets (which tend to drive prices to economic cost) and to provide the appropriate price signals to all market participants.[15] The FCC has concluded that prices based on cost (in particular, forward-looking economic costs) are consistent with this public policy objective.

As will be discussed below, the availability of wholesale facilities at TELRIC-based rates plays a critical role in disciplining retail markets. An increase in wholesale rates, which forbearance would bring about, is certain to impair this disciplining function of competitors – *and would-be competitors* – and fundamentally alter the competitive dynamic in retail markets.

B. Verizon Will Increase Wholesale Prices If Forbearance is Granted

1. Overview

As discussed above, if the FCC grants Verizon's Petitions, Verizon will no longer be required to make its loop and transport network elements available at TELRIC-based UNE rates. Verizon, like other RBOCs, has advocated that CLECs obtain these network elements out of Verizon's special access tariffs instead. Because there are few if any economically-viable alternatives to Verizon's loop and transport facilities, this means that CLECs will face the higher wholesale prices that Verizon's tariffed special access offerings constitute.

15 *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499 (1996), at ¶ 360 ("*Local Competition Order*"), aff'd in part and vacated in part sub nom. *Comp. Tel. Assoc. v. FCC*, 117 F.3d 1068 (8th Cir. 1997) and *Iowa Utils. Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997), aff'd in part and remanded, *AT&T v. Iowa Utils. Bd.*, 525 U.S. 366 (1999); on remand *Iowa Utils. Bd. v. FCC*, 219 F.3d 744 (8th Cir. 2000), reversed in part sub nom. *Verizon Communications, Inc. v. FCC*, 535 U.S. 467 (2002), at ¶ 679.

2. CLECs Have Few, If Any, Economically-Viable Alternatives to Verizon's Wholesale Facilities

CLECs' extensive use of Verizon's facilities today is driven by the fact that, particularly in the short and intermediate run, CLECs have no economically-viable alternatives.

To economically justify self provisioning facilities, CLECs must consider the demand and the anticipated rate of utilization of the facilities for a specific route. For example, a CLEC must typically expect at least 9 to 12 DS3 transport circuits on a route in the near term to economically justify self provisioning a route.[16] This means that construction of interoffice facilities by multiple CLECs will generally be found only on the very densest traffic routes. The economics of building one's own loop facilities are even more challenging. Specifically, a CLEC will generally require traffic demand requiring approximately three DS3 loops under contract at a particular location before it can economically justify the substantial investment in construction of its own loop facility to that business location.[17] Customers with this level of demand are very rare. Very few business customers are served with even one DS3 loop, much less three. Thus, while CLECs do own and operate their own loop and transport facilities in some circumstances, these limited facilities are location-specific and do not represent substitutes for the Verizon facilities that CLECs continue to rely upon. Further, since there are very few CLEC loops to commercial buildings (relative to the number of commercial buildings served), CLECs' ability to utilize loop facilities deployed by other CLECs is scarce.

To the extent CLECs have their own transport facilities, there are a number of problems that limit the viability of these CLEC facilities for use by other CLECs. A third-party carrier is unlikely to be able to provide all of the routes a CLEC would need in a metro area. Therefore, the decision to use a third-party carrier likely would require a CLEC to obtain and manage services obtained from multiple suppliers and the CLEC may have to build into the third-party carriers' locations in order to connect to its own switch site. When a CLEC decides to obtain facilities from multiple suppliers, it becomes more difficult to monitor and maintain service quality and maintenance and repair issues may pose problems. Also, the CLEC must establish and maintain cross-connects between the collocation arrangements to access the third party services/facilities, which may be expensive and obviate any perceived advantages of obtaining facilities from a third party. Finally, even if another CLEC has interoffice transport services available, it typically will not be willing to offer these facilities on a wholesale basis to a would-be competitor.

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16 *See, e.g.*, Declaration of Ajay Govil on behalf of XO Communications, LLC, *Minnesota Public Utilities Inquiry Regarding Petition of Qwest Corporation, Filed with the Federal Communications Commission, for Forbearance Pursuant to 47 U.S.C. Section 160(c) in the Minneapolis-St. Paul Minnesota Metropolitan Statistical Area*. MPUC Docket No.: P421/CI-07-661 (filed Aug. 16, 2007).

17 *Id.*

Importantly, cable operators do not present an economically-viable alternative to Verizon's wholesale loop and transport network elements for a variety of reasons. First, cable television systems are not typically designed to provide these types of services, and cable companies do not offer a wholesale loop or transport product to CLECs over cable television plant.[18] Second, the traditional cable networks and the needs of most CLECs do not necessarily overlap. CLEC customers often are businesses and, consequently, the CLECs' fiber optic backbones are found in business districts. By contrast, most cable television systems are built to serve residential customers in suburban areas. This means that the cable networks typically do not reach or connect to many of the CLECs' target business customers.[19] Lastly, even if a cable network were to reach the CLECs' business customers, the cable network is not necessarily constructed to reliably serve most business customers.[20]

Likewise, wireless services are not yet a viable wholesale alternative for either residential or business customers. This is in part because, overall, fixed and, particularly, commercial mobile wireless wholesale services do not today consistently provide the bandwidth, functionalities, or reliability at a comparable price to the wireline services that typically are required by CLECs serving residential customers, and most certainly for businesses customers. While this may change in the future, today wireless loop technology is clearly not a close substitute to Verizon's wireline DS-1 and DS-3 loop facilities.

In sum, there is no functioning wholesale market sufficiently robust to curtail Verizon's incentive and ability to raise wholesale prices for loop and transport network elements if its Petitions are granted.

3. The GAO Report Demonstrates that RBOC Pricing Flexibility Causes Upward Pressure on Prices

As noted, the GAO recently examined price movements in special access markets after the FCC granted pricing flexibility to the RBOCs based on the assumption that these

18 *See, e.g.,* Letter from Chris MacFarland, McLeodUSA, to the Marlene H. Dortch, Secretary, Federal Communications Commission (Dec. 15, 2006), attached as Exhibit D to Opposition of Cavalier Telephone Subsidiaries, WC Docket No. 06-172 (Mar. 5, 2007) ("*Cavalier Opposition*") ("McLeodUSA has approached Cox Communications on at least two occasions regarding its willingness to entertain a commercial arrangement for McLeodUSA to lease from Cox last mile network facilities. McLeodUSA was rebuffed on both occasions.").

19 *See, e.g.*, Comments of Cox Communications, Inc., WC Docket No. 06-172 (filed Mar. 5, 2007), at 6 (explaining that although it is a facilities-based company, Cox needs to lease Verizon's sub-loops to reach customers in Multiple Tenant Environments).

20 The cable networks may be constructed to support infrequent bursts of high speed data associated with cable modems as opposed to more continuous demand of high capacity business services.

markets were sufficiently competitive to restrain RBOC market power.[21] The GAO's analysis goes well beyond any analysis performed by the FCC or by any other entity. As such, the market dynamics and the pricing trends identified in the GAO Report are reliable guideposts for what is most likely to transpire if the FCC were to grant Verizon's requests for forbearance and the additional pricing flexibility inherent therein.

Specifically, the GAO Report concluded:

> Available data suggest that incumbents' list prices and average revenues for dedicated access services have decreased since 2001, resulting from price decreases due to regulation and contract discounts. *However, in areas where FCC granted full pricing flexibility due to the presumed presence of competitive alternatives, list prices and average revenues tend to be higher than or the same as list prices and average revenues in areas still under some FCC price regulation.* According to the large incumbent firms, many large customers needing service in areas with pricing flexibility purchase dedicated access services under contracts that provide additional discounts. However, GAO found that contracts do not generally affect the differential cited previously, and that contracts also contain various conditions or termination penalties competitors argue inhibit customer choice. Government agencies, to the extent that they purchase dedicated access off of General Services Administration contracts, are generally shielded from price increases due to pre-negotiated rates. However, not all agencies purchase off of these contracts.[22]

These and other findings and conclusions in the GAO Report indicate loops and transport, the services subject to Verizon's Petitions, are offered in markets that remain highly concentrated; *i.e.*, these markets are dominated by a few large players that continue to be able to push prices upward above competitive (reasonably cost-based) levels.

In sum, and for purposes of the analysis at hand, the GAO Report is a clear and definitive demonstration that Verizon's requested relief from the TELRIC pricing requirements would generally translate into upward pressure on wholesale prices for network elements used by competing CLECs. If there is not sufficient competitive pressure to keep Verizon from increasing its special access prices when it has the regulatory flexibility to do so, there is no reason to believe that there is sufficient competitive pressure to prevent

[21] In this context, the term market power is used to indicate that a firm has the ability to profitably raise prices above competitive levels for a sustained period of time.

[22] GAO Report, at 1 (emphasis supplied).

Verizon from increasing the prices for its loop and transport facilities to, at a minimum, its special access prices with a grant of forbearance.[23]

C. Comparison: Verizon's Special Access versus TELRIC-Based UNE Rates

As noted above, the *QSI Model* underlying the *QSI Study* is driven by the increases in Verizon's wholesale rates from TELRIC-based UNE rates to current special access rates. To model these rate increases, QSI accounted for a number of complicating factors such as the rate variance across rate/density zones; term discounts; distance/mileage sensitive rates and the unavailability of high-capacity UNE loop and transport elements in certain wire centers as a result of the *TRRO*.[24]

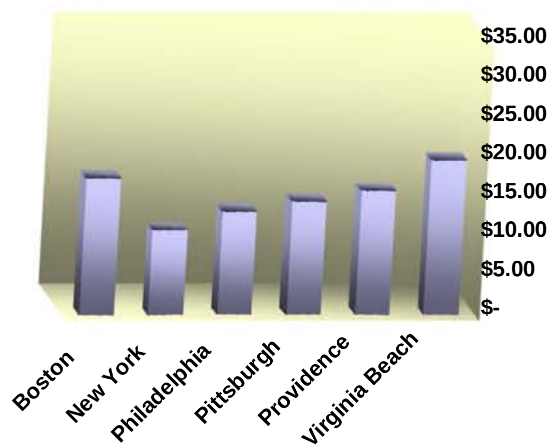
The following charts illustrate the difference between Verizon's recurring UNE and special access rates by MSA.[25]

23 It is important to note that special access pricing has been kept in line by the availability of TELRIC-priced UNEs and in the absence of UNEs special access prices are very likely to rise.

24 *Unbundled Access to Network Elements*; *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers,* Order on Remand, 20 FCC Rcd 2533 (2005) ("*TRRO*"), *affirmed Covad Communications v. FCC*, 450 F.3d 528 (D.C. Cir. 2006).

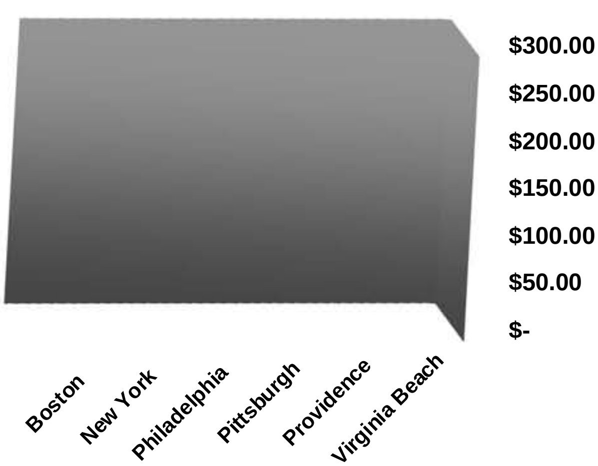
25 For rates that vary by rate zone or band, the charts depict an average of the highest and lowest banded/zoned rates. For MSAs that span more than one state, state-specific rates were weighted by relative demand shares. Special access rates account for the specific pricing flexibility status of each MSA. Transport rates include per termination and mileage-sensitive components aggregated via an assumption of a 10 mile transport. For special access rates with term discounts month-to-month rates were utilized because they present a closer substitute to UNEs (for which no term discounts apply) than term rates.

2 Wire Analog Loops:
UNE Cost and Cost if Forbearance is Granted
(Recurring per Month)



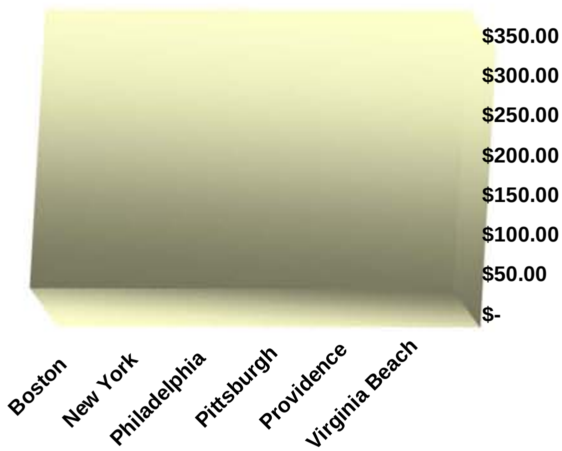
	Boston	New York	Philadelphia	Pittsburgh	Providence	Virginia Beach
UNE Cost	$17.65	$10.90	$13.36	$14.58	$15.97	$19.88
Cost if Forbearance is Granted	$28.58	$26.76	$23.28	$31.45	$28.58	$31.01

DS1 Loops:
UNE Cost and Cost if Forbearance is Granted
(Recurring per Month)



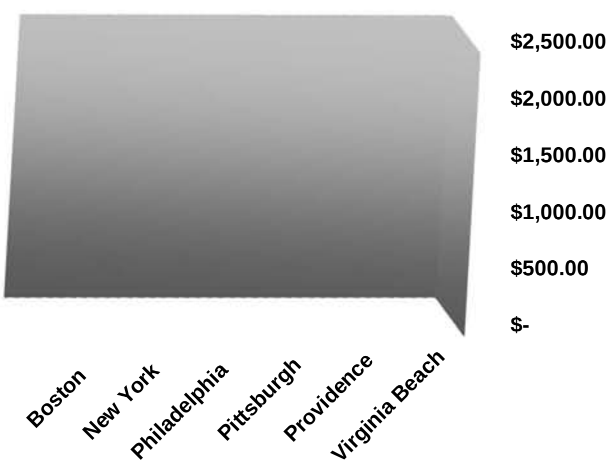
	Boston	New York	Philadelphia	Pittsburgh	Providence	Virginia Beach
UNE Cost	$80.17	$94.65	$96.00	$99.71	$145.11	$85.47
Cost if Forbearance is Granted	$215.85	$207.71	$214.25	$259.35	$225.68	$255.69

DS1 Transport:
UNE Cost and Cost if Forbearance is Granted
(Recurring per Month)



	Boston	New York	Philadelphia	Pittsburgh	Providence	Virginia Beach
UNE Cost	$51.30	$60.57	$47.23	$53.48	$91.44	$71.04
Cost if Forbearance is Granted	$328.70	$328.70	$328.70	$328.70	$328.70	$324.07

DS3 Transport:
UNE Cost and Cost if Forbearance is Granted
(Recurring per Month)



	Boston	New York	Philadelphia	Pittsburgh	Providence	Virginia Beach
UNE Cost	$527.12	$722.14	$832.24	$1,005.78	$827.69	$730.76
Cost if Forbearance is Granted	$2,375.30	$2,375.30	$2,375.30	$2,375.30	$2,375.30	$2,341.85

As seen in the above charts, the differences between Verizon's recurring UNE and special access rates for the loop and transport network elements is significant. On average across the six MSAs, current special access rates for 2-wire and DS1 loops are *more than two times higher* than UNE rates. The increase is even more pronounced for transport, with special access rates being *more than 5 times higher* than UNEs for DS1 transport, and *more than 3 times higher* than UNEs for DS3 transport on average across the six MSAs.

III. WHOLESALE PRICE INCREASES INDUCE ***RETAIL*** PRICE INCREASES

A. Overview

As discussed in the previous Sections, one effect of a grant of forbearance will be an increase in Verizon's wholesale prices charged to its retail competitors, the CLECs. In response to these wholesale price increases, CLECs may seek to flow through these cost increases to their end user customers in order to maintain their levels of profitability. To the extent that market conditions may prevent them from fully and proportionately raising end user/retail rates (either immediately or over time), CLECs will have to absorb some (or all) of the wholesale price increases. CLECs that operate on the narrow edge of profitability and are unable to either flow through or absorb wholesale price increases may be forced to exit the market, either by shrinking their operations and exiting one or more MSAs or by ceasing operations altogether.[26] Be that as it may, the increases in wholesale rates will induce significant upward pressure on the end user/retail rates of virtually all CLECs.

In what follows, we will discuss in more detail the CLECs' pricing responses and the responses from other market participants, such as Verizon, the cable companies, and others. We will discuss why the high degree of concentration in telecommunications markets and the limited ability and interest of intermodal competitors will permit the general level of retail prices to move upward as a result of CLEC-initiated price increases.

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26 Of course, there are many variations in the scenarios that may occur. Nevertheless, the permutations involve combinations of three basic responses: the CLEC either (1) absorbs the wholesale price increase; (2) flows through the wholesale price increase to end users; or (3) withdraws from the market.

B. Wholesale Price Increases Lead to CLECs Exiting Markets and/or Increasing Retail Prices

If the FCC grants Verizon's Petitions as they relate to unbundling obligations pursuant to Section 251 of the Act, a series of interrelated actions by telecommunications market participants would be set into motion. First and foremost, Verizon would increase its wholesale prices to CLECs.

To fully understand the effects of this change, it is important to understand the *initial* predicament of CLECs when Verizon increases wholesale prices for its network elements.[27]

The predicament in which a grant of forbearance will place CLECs is traditionally known as a "price squeeze."[28] To defeat the detrimental impact of wholesale price increases on their bottom line, CLECs will seek to increase their end-user rates. It is this initial impetus to raise prices in response to Verizon's increase in wholesale rates that will cause ripple effects by inducing other market participants to raise their prices in turn. While in well functioning markets, such efforts would be penalized by customers migrating to lower-priced competitors, this is unlikely to occur in the six MSAs at issue for a number of reasons. First, the GAO Report conclusively demonstrated that these markets lack the competitive dynamics for curtailing the RBOCs', in this instance, Verizon's, market power. Further, as will be discussed, the upward movement in end user/retail prices is made possible by the high degree of concentration in telecommunications markets and the fact that intermodal competition is not predominantly price-oriented competition.

Of course, as the CLECs increase their retail rates, Verizon could respond by keeping its retail rates constant in order to expand its market share at the expense of the CLECs. However, there are a number of reasons why Verizon will opt to increase its retail rates in tandem with other market participants. We have already discussed the GAO Report finding that pricing flexibility for local network facilities translates into higher rates. Further, as will be discussed below, in highly concentrated markets such as telecommunications markets, dominant firms generally are able to increase their profits by raising prices and forfeiting larger market shares.

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27 Of course, not all CLECs use Verizon's facilities to the same degree, but virtually all CLECs operating in Verizon territory use some Verizon facilities. The QSI Model reflects the various degrees to which CLECs may be impacted.

28 For a more formal definition, *see* Jean Tirole, "The Theory of Industrial Organization," The MIT Press, Cambridge, Massachusetts, 1988, at 186 ("Considering a situation in which a monopoly supplier is integrated downstream, a price squeeze [is] the situation in which the monopoly input supplier charges a price for the input to its downstream competitors that is so high they *cannot profitably* sell the downstream product in competition with the integrated firm.").

C. Granting Verizon Forbearance from TELRIC-Based Pricing of UNEs would Create a Qualitative Change in the Nature of the Retail Market

Even more important than a simple increase in the wholesale cost of CLECs is the qualitative change in the retail market structure that would occur if Verizon is relieved of the TELRIC pricing obligation for loop and transport network elements. In the current marketplace, CLECs provide a disciplining force to retail prices. Even though CLECs' actual market share may not be large, the potential for CLEC entry through purchase of TELRIC-based UNEs creates downward pressure on retail telecommunications prices because a new entrant may obtain bottleneck network elements at economic cost, and is thus capable of pricing retail services at economic cost. This situation is similar to the economic concept of contestable markets in which the presence of potential competition (not necessarily actual competition) constrains prices of a single producer and results in market prices similar to those of a competitive market. If the requirement of TELRIC-based pricing for network elements is eliminated, the retail markets would not be constrained by the threat of quick competitive entry. If Verizon's Petitions are granted, Verizon would have the means (*i.e.*, essential facilities) and the opportunity (*i.e.*, elimination of competitors who obtain network elements at economic cost) to dominate the retail stage of the wireline market, with the surviving CLECs acting as a competitive fringe that follows the price leader, the dominant firm. Even assuming the presence of another facilities-based provider (*i.e.*, a cable company) in certain market segments such as the high-end residential market,[29] the resulting retail market structure would be an oligopoly, in which few dominant suppliers extract above-normal profits through their ability to charge prices that are higher than prices in a competitive market.

D. Firms with Market Power – Such as Verizon – Are Willing and Able To Increase Profits by Raising *Retail* Prices and Forfeiting Larger Market Shares

Basic economic theory suggests that Verizon has strong incentives to increase retail prices. A dominant firm, such as Verizon, does not generally seek to price its services so as to achieve – or maintain – a market share that is as large as possible. Rather, it will seek to raise prices to the greatest extent possible so as to maximize profits and it will do so even if this means forfeiting market share to competitors. In seeking to maximize its

29 We distinguish here high-end (high-revenue) residential telephone markets from low-end (low revenue) residential market because cable companies typically offer bundled packages, in which features are bundled with local and long-distance telephone service and, often, with cable and/or Internet access, and lack an affordable basic plan,. *See, e.g.*, *Comments of the City of Philadelphia*, WC Docket No. 06-172 (filed Mar. 5, 2007), at 10-12, pointing out that Comcast voice services are only available with the purchase of both a cable modem and replacement telephone equipment, making it costly to switch providers and requiring high discretionary income.

profits, a dominant firm, such as Verizon, will balance the gains in revenues (and profits) associated with higher prices against the loss of revenues (and profits) associated with a diminished demand and market share (caused by the higher prices). The incentives for Verizon's responses to CLECs' retail price increases are meaningfully captured by the Dominant Firm – Competitive Fringe Pricing Model.[30] Under this general pricing model, there exists some optimal and sustainable market share for Verizon depending on the magnitude of Verizon's cost advantages over its "fringe" competitors. The greater the cost advantage of Verizon over its fringe competitors, the larger will be the optimal market share that Verizon will be able to sustain at prices above competitive levels. To the extent that a grant of forbearance eliminates the requirement that network elements be priced at TELRIC, Verizon is given the discretion to select the desired level of cost advantage over its fringe competitors, the CLECs. The higher Verizon sets its wholesale prices, the greater will be its cost advantage and the larger will be its optimal market share while charging retail prices above competitive levels.

Within the current context, the implications of the Dominant Firm – Competitive Fringe Pricing Model are that when CLECs are forced to increase their retail prices, Verizon should be expected to follow suit. To summarize, if Verizon's Petitions are granted, Verizon would have the means, opportunity and incentive to increase retail market prices.

E. The Elimination of a Retail Competitors Will Facilitate Collusive Conditions and Lead to Higher Retail Rates

Some of the CLECs, however, will not be able to increase their retail rates to levels necessary to sufficiently offset increases in Verizon's wholesale prices. This may be particularly true for CLECs that are heavily dependent on Verizon's facilities. Such CLECs will face greater cost pressures than CLECs that use more of their own network facilities (and who are in part – though only in part – insulated from the wholesale cost increases). Thus, some CLECs will be forced to scale back their operations or to exit one or more of the six MSAs if Verizon is granted forbearance.

In general, one or a few relatively small competitors can be an important factor in the nature and intensity of competition in the market. The effect of these retail competitors is often disproportionate to their size or market share. As explained above, as long as the CLECs are able to purchase network elements at TELRIC rates, they provide a disciplining force on retail markets. In addition, CLECs have been responsible for many innovations in telecommunications services.[31] A CLEC may focus on a specific end-user segment that may have been overlooked by a much larger incumbent such as Verizon.

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30 *See* Gaskins, Darius W., Jr.,"Dynamic Limit Pricing: Optimal Pricing Under Threat of Entry." *Journal of Economic Theory* 3:306-22 (1971).

31 *See, e.g.*, *Opposition Of Earthlink, Inc. and New Edge Network, Inc.* WC Docket No. 06-172 (filed Mar. 5, 2007), at 3-11 and 13-14 (describing CLECs' innovative offerings in broadband markets).

This behavior forces other firms to compete more aggressively and may undermine their ability to coordinate.[32] Thus, the disruptive behavior of the retail competitor, or maverick, favors consumers.

Verizon's inevitable price squeeze, sanctioned by a grant of forbearance, would remove some CLECs and would significantly change the nature and intensity of retail competition. Higher retail prices would inevitably ensue as the elimination of the retail competitor, the CLEC, would diminish competition and enable the remaining competitors, Verizon and the cable companies, to more easily engage in coordinated interaction – at the expense of consumers.

In short, the elimination of retail competitors, CLECs, from the market as a result of the requested forbearance would increase the degree of Verizon's market power and, potentially, induce collusion, and is yet another reason to anticipate higher retail prices as well as diminished consumer choice if forbearance is granted.

1. The Elimination of CLECs will Facilitate Coordinated Interaction Between Duopolists

The elimination of CLECs as a disciplining force for retail prices would lead to a reduced number of competing entities in the market, which would facilitate tacit coordination or collusion between the shrinking numbers of remaining service providers.[33] The retail competitors (*i.e.*, CLECs) have been thwarting the ability of the intermodal competitors, predominantly Verizon and the cable companies, to reach consensus. That is, there may have been no coordination heretofore because of the retail competitor-led impediments to such coordination such as (1) differences in incentives to reach consensus due to the practices of retail competitors or maverick practices; (2) complexity and/or lack of transparency in market outcomes to make consensus or detection feasible; or (3) lack of credible punishment strategies.[34]

The focus of the consequences of removing the retail competitor (*i.e.*, the CLECs) is not so much on the joint maximization of profit, but rather that of policing a collusive agreement.[35] In the presence of the particular factors governing the feasibility of

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[32] Baker, Jonathan B., "Mavericks, Mergers and Exclusion: Proving Coordinated Competitive Effects Under the Antitrust Laws," 77 *New York University Law Review* (2002), at 135.

[33] More formally, coordinated interaction consists of actions by a group of firms that are profitable for each of them as a result of the accommodating reactions of the other. This behavior may consist of tacit or express collusion. The seminal article is George Stigler, "A Theory of Oligopoly" 72 *Journal of Political Economy* (1964).

[34] Phlips, Louis, "Oligopoly and Collusion," <u>The Economics of Imperfect Information</u> (1988).

[35] Roberts, K., "Cartel Behavior and Adverse Selection," 33 *Journal of Industrial Economics* (1983), at 401-413.

collusion, through repeated interaction the two companies may reach an equilibrium where prices are higher and output lower.[36]

The consensus-punishment-detection paradigm illuminated by modern game theory requires that the market and the nature of transactions and other market outcomes be sufficiently simple and transparent. Sufficient simplicity is required in order to make consensus viable and to detect deviations from consensus. Sufficient simplicity generally also is required in order for punishment strategies to be viable. For example, if transactions typically involve very complex terms that are not standardized and vary across customers, coordinated interaction on price is likely to be very difficult. However, in such circumstances, coordinated interaction via dividing customers may still be viable. Sufficient transparency is required in order for deviations from consensus to be detected.

The existing complexities with the retail competitors, the CLECs, present cause the profitability of abiding by the terms of coordination to decrease and make coordinated interaction unlikely in the first instance.

The nature of customer orders taken by the retail competitor or maverick are frequent, regular, and small relative to the total output of a market participant and make it more difficult for the network providers to deviate in a substantial way without the knowledge of rivals and without the opportunity for rivals to react. Thus, deviations are less easy to deter.

The presence of the retail competitor disrupts key information flowing to the rival network providers, preventing them from easily reaching terms of coordination. The plausible arrival at acceptable terms of coordination are limited or impeded by the product heterogeneity cast by the independent vendor, which necessarily reduces the flow of required information about the conditions and prospects of their rivals' businesses.

The presence of competitors in the retail arena also obscures key information about specific transactions or individual price or output levels necessary for network providers to tacitly establish collusive arrangements.

Thus, absent the presence of retail competitors, possible coordination between duopolists becomes far more likely. Possible methods of coordination include: (1) coordinating on price; (2) allocating customers; or (3) coordinating on capacity. Without competitors in the retail environment, prices are transparent, rendering price coordination much more feasible. Customer allocation also is feasible because there is consistency in the customer base. In addition, good information about which competitors serve which customers and the reasons for changes can be readily ascertained.

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[36] Church, Jeffrey & Roger Ware, Industrial Organization: A Strategic Approach (2000), at Chapter 10; Jean Tirole, The Theory of Industrial Organization (1992), at Chapter 6.

In the current instance, this means that as long as CLECs have access to cost-based wholesale facilities, they will always be able to defeat any attempts at collusion between Verizon and the cable companies. Of course, after a grant of forbearance, Verizon would be able to increase its wholesale rates and diminish or eliminate the CLECs' ability to disrupt collusion.

2. Intermodal Competition is Not Price Constrained Competition

The intermodal competition between the two dominant service delivery platforms, wireline and cable, is not played out primarily by means of price competition. Rather, the dynamics between the platforms is far more complex, with each having unique functionalities, strengths, and weaknesses, which are not or only partially shared by the other.

Cable companies typically bundle their voice services with high-speed Internet access or cable TV services, or require the customer to purchase multiple services to obtain a favorable rate for voice services. For example, Comcast – which Verizon states passes about 80% of homes in the Philadelphia MSA[37] – offers the Comcast Unlimited® Special package under its Comcast Digital Voice® services. This package provides subscribers with unlimited local/long distance calling and popular features for $24.95/mo. for 6 months and $39.95 per month thereafter – only for customers who purchase Comcast Cable and/or Comcast High Speed Internet with Digital Voice.[38] The Comcast Unlimited® service states that the price is as low as "$39.95 for customers that subscribe to Comcast Cable ***and*** Comcast High-Speed Internet."[39] Comcast Unlimited® Special and Comcast Unlimited® are the only two Comcast Digital Voice® services available from Comcast's website. In other words, Comcast offerings do not include an affordable basic telephone-only plan. Comcast also offers other packages in Philadelphia – all of which bundle digital cable, high speed Internet, and Comcast Digital Voice for between $99.00 - $159.00/mo.

Cable telephone services may also differ from traditional POTS service in terms of quality of service. For example, the Residential Subscriber Agreement for Comcast's Digital Voice® service describes limitations on emergency services,[40] potential service

[37] Verizon Philadelphia Petition, at 4.

[38] The Terms and Conditions for this package state: "To qualify for offer, service must be ordered via www.comcast.com. Offer only available to customers who subscribe to Comcast Cable Video or Comcast High Speed Internet Service or customers who are purchasing Comcast Digital Voice with a Cable or High Speed Internet package."

[39] www.comcast.com/Shop/Buyflow/Default.ashx (emphasis supplied).

[40] "Limitations: The Services include 911/Enhanced 911 function ("911/E911") that may differ from the 911 or Enhanced 911 function furnished by other providers. As such, it may have certain

interruptions,[41] and incompatibility with equipment and services (including MTAs not certified by Comcast, some home security systems, and fax machines, causal/dial around (10-10) calling, 311/511/other x11 calling). Although Verizon offers "triple play" bundles, Verizon also offers plans consisting only of telephone services not bundled with high speed Internet, TV, or wireless.[42] The point is that cable companies *do not* directly compete with Verizon for basic telephone services on an apples-to-apples basis in which price is the dominant aspect.

In sum, given the highly concentrated and increasingly duopolistic nature of telecommunications markets, it is highly unlikely that the cable companies will have an interest in meaningfully curtailing Verizon's ability to raise retail rates in the six MSAs at issue. More likely, cable companies will welcome the additional breathing space created by Verizon's higher retail rates and continue to encounter Verizon in the marketplace based on factors other than price.

IV. DESCRIPTION OF *QSI IMPACT STUDY* METHODOLOGY

In the above Sections we have demonstrated that forbearance would first lead to increases in wholesale rates and then to increases in retail rates in the six MSAs at issue. The *QSI Study* quantifies the costs of forbearance by identifying the total increases in retail telecommunications expenditures in the six MSAs.

A. Study Methodology and Data

The expected estimated impact is driven mainly by Verizon's request for forbearance from loop and transport unbundling obligations and the price increases for loop and transport facilities that would occur if Verizon was no longer required to provide those

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limitations." Comcast Digital Voice ® Phone Terms of Service – Residential Subscriber Agreement, Version 2.0, p. 1. *See*: http://www.comcast.com/MediaLibrary/1/1/About/PhoneTermsOfService/PDF/DigitalVoice/SubscriberAgreement/Z33T86CDV%20Agreement1103051.pdf

41 "CDV uses the electrical power in your home. If there is an electrical power outage, 911 calling may be interrupted if the battery backup in the associated MTA…is not installed, fails, or is exhausted after several hours. Furthermore, calls, including calls to 911/E911, may not be completed if there is a problem with network facilities, including network congestion, network/equipment/power failure, or another technical problem." Comcast Digital Voice ® Phone Terms of Service – Residential Subscriber Agreement, Version 2.0, p. 2. *See*: http://www.comcast.com/MediaLibrary/1/1/About/PhoneTermsOfService/PDF/DigitalVoice/SubscriberAgreement/Z33T86CDV%20Agreement1103051.pdf

42 *See* Verizon Freedom Calling Plans, available at www22.verizon/com/Residential/Phone/Unlimited+Calling+Plans/Unlimited+Calling+Plans.htm.

facilities at TELRIC rates in the six MSAs at issue.[43] The use of current special access rates as a proxy for the rates that would result is a very conservative approach because special access rates are likely to increase absent the discipline provided by the availability of UNEs.[44]

Using publically-available demand data, the *QSI Study* focused on the impact of a grant of forbearance in the following three markets:

1. Mass market (measured by residential and single line business switched access lines);
2. Enterprise market (measured by multi-line switched access lines); and
3. High-speed broadband Internet market.[45]

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43 As pointed out in a July 10, 2007 ex parte letter in WC Docket No. 06-172, "[w]hile Verizon suggests that it would have the incentive to offer commercially reasonable rates and terms, the truth is that Verizon has no such incentive in the absence of its § 251(c)(3) obligations. Even if Verizon chose to offer a post-forbearance contractual replacement for UNE loops, it is unlikely that the terms of such an offering would be comparable to the rates that could be expected to exist in a truly competitive market." This Ex Parte goes on to state that Verizon's commercial pricing "will be no lower than the recurring and nonrecurring charges Verizon originally proposed to charge for copper loop UNEs in rate proceedings before various state commissions." *See* a July 10, 2007 ex parte letter in WC Docket No. 06-172 filed on behalf of Alpheus Communications, L.P.; ATX Communications, Inc.; Cavalier Telephone Corporation; CloseCall America, Inc.; DSLnet Communications, LLC; Eureka Telecom, Inc. d/b/a InfoHighway Communications; ITC^DeltaCom Communications, Inc.; McLeodUSA Telecommunications Services, Inc.; MegaPath, Inc; Mpower Communications Corp.; Norlight Telecommunications, Inc.; Penn Telecom, Inc.; RCN Telecom Services, Inc.; RNK Inc.; segTEL, Inc.; Talk America Holdings, Inc.; TDS Metrocom, LLC; and U.S. Telepacific Corp. d/b/a Telepacific Communications. This assumption is overly conservative because Verizon's proposals in a contested UNE rate proceedings (to be reviewed under the TELRIC standards) is likely to be lower than Verizon's proposal in commercial negotiations regarding its essential bottleneck facilities – commercial negotiations in which Verizon clearly has negotiating advantage and in which there are no prescribed pricing standards, no burden of proof, and no regulatory oversight.

44 *See, e.g., ACN, et al. Opposition,* at 39; *Comments of Time Warner Cable,* WC Docket No. 06-172 (filed Mar. 5, 2007), at 21; *Reply Comments of Paetec Communications, Inc. and US LEC Corp*., WC Docket No. 06-172 (filed Apr. 18, 2007), at 4; and *Telecom Investors Opposition*, WC Docket No. 06-172 (filed Mar. 5, 2007), at 4. Time Warner Cable explained that the presence of UNEs in the marketplace disciplines the incumbent LEC's special access pricing. *See Time Warner Cable Comments*, at 21. It bears noting that in all six MSAs, Verizon has full pricing flexibility for special access transport, and in two MSAs, Verizon has full pricing flexibility for local channel terminations. It also bears noting that the Verizon-MCI merger condition that prohibits the company from increasing its special access rates will expire in July 2008. *See ACN et al. Opposition* at 38.

45 QSI derived the volume information for these markets by pooling various data sources, including the ILEC and CLEC line count data from the FCC's most recent Local Competition Report, ARMIS 43-08 Reports, the FCC Report High-Speed Services for Internet Access, publicly-available wire center line count data from the FCC's high-cost fund support calculations, MSA-level population and household counts from the Census Bureau, and county-level population and

QSI collected Verizon's current UNE and special access recurring rates for key network elements, *i.e.*, local loops and transport. QSI then calculated the difference between UNE-based and special-access based rates for various network element combinations under which end-user markets in the study are typically served. The charts depicting the difference between Verizon's recurring UNE and special access rates by MSA are presented in Section II(c) above.[46]

The calculated difference between UNE and special access rates constitutes the increase in wholesale cost faced by CLECs if forbearance is granted – the increase that CLECs may partially absorb (thus decreasing their margins and potentially exiting the market) or/and partially pass through to retail customers (thus weakening the retail price discipline that UNE-based CLECs provide to retail markets)[47] The end result is that the overall level of retail prices will go up following the increase in CLECs' wholesale costs.[48] The *QSI Study* reasonably assumes that the price increases in retail markets will be smaller than the price increases in the wholesale market, and will be accompanied by decreases in demand.

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personal income data from the Regional Economic Information System of the Bureau of Economic Analysis.

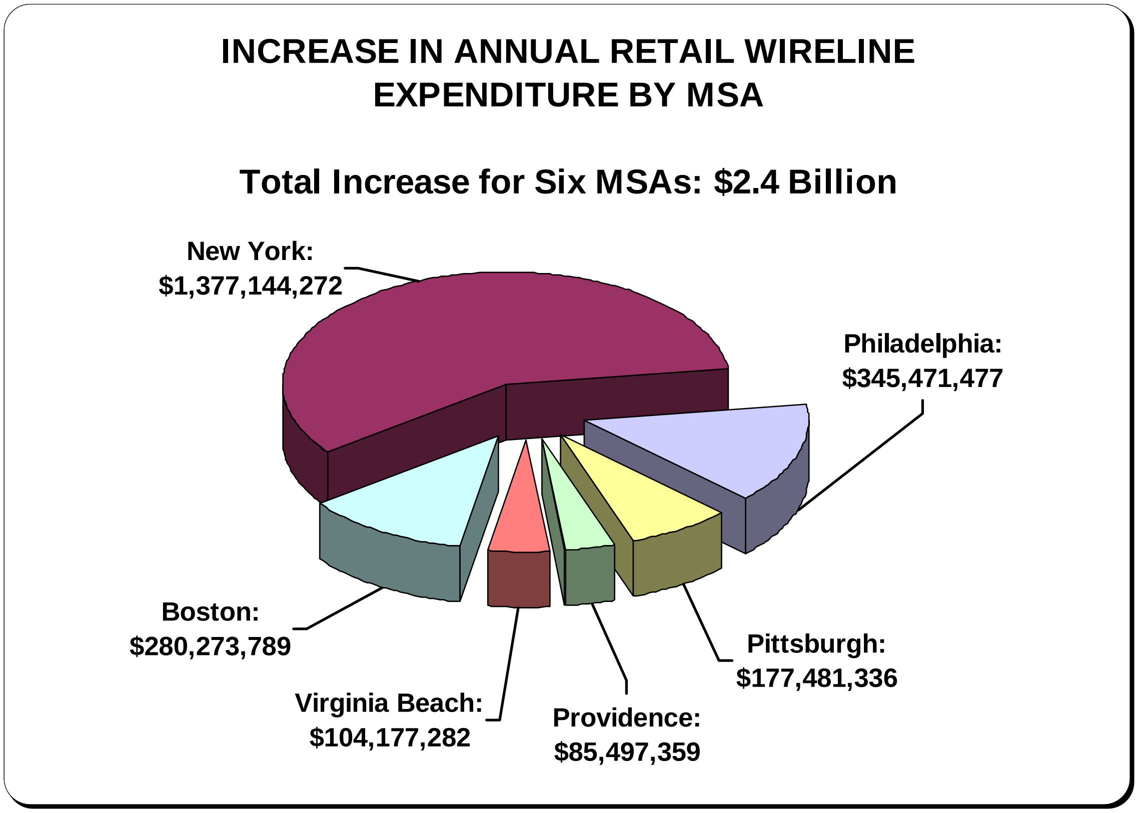
46 When utilizing the calculated differences described above in its impact calculations, QSI accounted for the fact that Verizon is not required to provide unbundled access to high capacity loop and transport UNEs in certain wire centers due to the FCC's *TRRO.*

47 For further discussion of the price discipline provided by CLECs, *See Opposition of Cavalier Telephone Subsidiaries*, WC Docket No. 06-172 (filed Mar. 5, 2007), at 12-13.

48 The specific channels through which the overall market price increase would occur may include an increase in rates for non-regulated or de-regulated services. As noted by NASUCA , granting Verizon's Petitions may allow Verizon to increase its Federal Subscriber Line Charge. *Comments of the National Association of State Utility Consumer Advocates, the Pennsylvania Office of Consumer Advocate, the Public Utility Law Project of New York, Inc., the Massachusetts Office of Attorney General, the Virginia Office of Attorney General, the Maryland Office of People's Counsel, the New Jersey Division of Rate Counsel, the New Hampshire Office of Consumer Advocate and the Connecticut Office of Consumer Counsel*, WC Docket No. 06-172 (filed Mar. 5, 2007), at 23. Further, more services may become deregulated in the near future: For example, Cavalier noted that Verizon has applied for deregulation of virtually all retail services in Virginia. *Opposition of Cavalier Telephone Subsidiaries*, WC Docket No. 06-172 (filed Mar. 5, 2007), at 11. NASUCA's comments inform that Verizon applied in Maryland to reclassify all of its intrastate bundled services as "competitive" within the Verizon Maryland Price Cap plan. *Comments of the National Association of State Utility Consumer Advocates, et al.*, WC Docket No. 06-172 (filed Mar. 5, 2007), at n. 54. NASUCA noted further that "[e]ven in the presence of regulations, Verizon has shown a tendency toward rate ***increases***, rather than rate decreases, to respond to 'competition' in the market for its bundled services," pointing to Verizon's recent tariff transmittal to increase rates for bundles in Maryland, Massachusetts, New Jersey and Pennsylvania. *Id.*

B. Results of *QSI Study*

QSI calculated the impact of granting Verizon's Petitions as an increase in retail telecommunications expenditures associated with mass market voice, enterprise and high speed broadband Internet markets.[49] This impact estimate is ***$2.4 billion annually for the six MSAs at issue***. The chart below provides a breakdown of this estimate by MSA.



As seen from the above chart, the New York MSA accounts for over half of the total $2.4 billion annual impact, and the smallest absolute impact is expected in the Providence MSA – the result driven mainly by the relative size of the MSAs.

The following chart breaks down the total estimated annual impact of $2.4 billion into market segments – mass market voice, enterprise, and broadband Internet.

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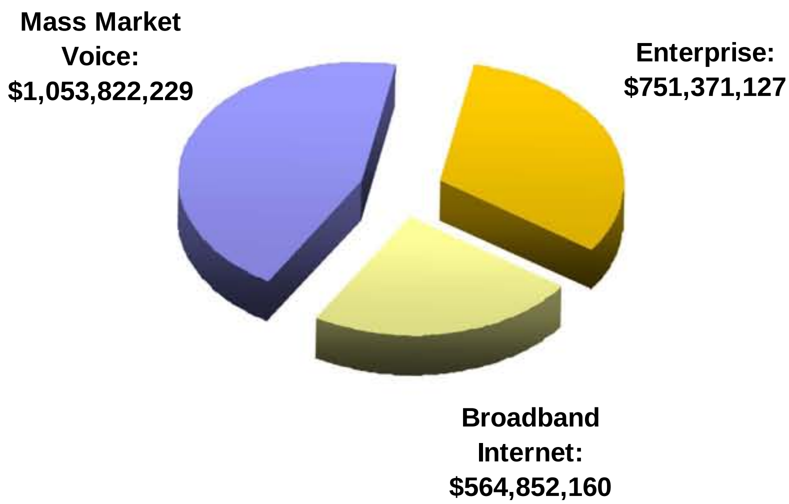
49 As noted above, the *QSI Study* reasonably assumes that retail demand volumes would go down in response to market price increases. This reduction in market demand causes a societal welfare loss known in economics as *a deadweight loss* to society. QSI's estimated impact did not include this effect.

INCREASE IN ANNUAL RETAIL WIRELINE EXPENDITURE BY MARKET

Total Increase for Six MSAs: $2.4 Billion



As seen from the above chart, the most significant portion of the expected annual impact will occur in the mass market (at $1.1 billion). The broadband Internet market can also be considered a mass market because it is composed predominantly of residential customers. Thus, of the total $2.4 billion annual impact, the ***residential Voice and Internet markets account for a $1.6 billion increase in annual retail expenditures***, or, equivalently, ***$114 per household*** on average across the six MSAs.

The following table places this estimate in context by comparing the projected increase in residential household expenditures to the current residential household wireline expenditures.[50]

[50] Current household wireline expenditures are based on the 2005 data from the FCC's "Reference Book of Rates, Telephone Indices, and Household Expenditures for Telephone Services" (2007), Tab 2.6 and Bureau of Labor Statistics 2005 Consumer Expenditure Survey.

Relative Increase in Residential Annual Retail Expenditures

MSA	Residential Voice and Broadband Internet	
	Annual Increase per Household	% Residential Wireline Expenditure
Boston	$ 92	20%
New York	$ 132	28%
Philadelphia	$ 87	19%
Pittsburgh	$ 120	26%
Providence	$ 96	20%
Virginia Beach	$ 84	17%
Combined 6 MSAs	**$ 114**	**24%**

Finally, the following table provides an additional context for the total impact across all markets. It lists the total impact as a percentage of total wireline end user revenue in each MSA.

Relative Increase in Total Annual Retail Expenditures

MSA	Total Voice and Broadband as % Total Retail Wireline Revenues
Boston	11%
New York	13%
Philadelphia	11%
Pittsburgh	15%
Providence	11%
Virginia Beach	12%
Combined 6 MSAs	**13%**

V. CONCLUSION

Based on our analysis, we estimate that Verizon's Petitions – if granted – would result in a $2.4 billion increase in retail telecommunications expenditures in the Boston, New York, Philadelphia, Pittsburgh, Providence, and Virginia Beach MSAs annually, including a 24% increase in residential household wireline bills (which equals $114 per household annually). This increase would result from the qualitative change in retail telecommunications markets in these MSAs, where the pricing discipline provided by CLECs who currently obtain network elements at TELRIC rates would be diminished or eliminated.